

# Birchanger Parish Council Councillor Code of Conduct

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Date of next review	<b>The LGA has committed to reviewing the Code on a bi-annual basis to ensure it is still fit for purpose.</b>	

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## PART 5 - CODES AND PROTOCOLS

### THE COUNCILLORS' CODE OF CONDUCT

#### Introduction

All councils are required to have a local Councillor Code of Conduct.

The Local Government Association (LGA) developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. Uttlesford District Council adopted this as its Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit for purpose, incorporating advances in technology, social media and changes in legislation.

#### Definitions

For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who a) is a member of any committee or sub-committee of the authority, or; b) is a member of, and represents the authority on, any joint committee or joint subcommittee of the authority; and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

#### Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. For further guidance on how the Code operates please see [Guidance on Local Government Association Model Councillor Code of Conduct | Local Government Association](#)

#### General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I will act with integrity and honesty
- I will act lawfully
- I will treat all persons fairly and with respect; and
- I will lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I will impartially exercise my responsibilities in the interests of the local community
- I will not improperly seek to confer an advantage, or disadvantage, on any person
- I will avoid conflicts of interest
- I will exercise reasonable care and diligence; and
- I will ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor. This Code of Conduct applies to you when you are acting in your capacity as a councillor, which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor. Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### **Standards of Councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken. The obligations of the Code of Conduct are in bold and guidance is included in italics to help explain the reasons for the obligations and how they should be followed.

#### **General Conduct**

### **1. Respect**

**As a councillor:**

- I will treat other councillors and members of the public with respect.**
- I will treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

*Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack. In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's council or officer protocol.*

## 2. Bullying, harassment and discrimination

### As a councillor:

- i I will not bully any person.**
- ii I will not harass any person.**
- iii I will promote equalities and will not discriminate unlawfully against any person.**

*The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others. The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person. Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.*

## 3. Impartiality of officers of the council

### As a councillor:

**I will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

*Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try to force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.*

## 4. Confidentiality and access to information

### As a councillor:

#### 4.1 I will not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it**
  - ii. I am required by law to do so**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is -**
    - i. reasonable and in the public interest**
    - ii. made in good faith and in compliance with the reasonable requirements of the local authority and I have consulted the Monitoring Officer prior to its release.**

**4.2 I will not improperly use knowledge gained solely because of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.****4.3 I will not prevent anyone from getting information that they are entitled to by law.**

*Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.*

**5. Disrepute****As a councillor:****5.1 I will not bring my role or local authority into disrepute.**

*As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is dishonest and/or deceitful can bring your local authority into disrepute. You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.*

**6. Use of position****As a councillor, I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

*Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges and you make choices all the time that will affect others. However, you should not take advantage to further your own or others' private interests or to disadvantage anyone unfairly.*

**7. Use of local authority resources and facilities****As a councillor:****7.1 I will not misuse council resources.****7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

*You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.*

*Examples include:*

- office support*
- stationery*
- equipment such as phones, and computers*
- transport*
- access and use of local authority buildings and rooms.*

*These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.*

## 8. Complying with the Code of Conduct

### As a Councillor:

- 8.1 I undertake Code of Conduct training provided by my local authority.
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

*It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint, you should raise this with your Monitoring Officer.*

## Protecting your reputation and the reputation of the local authority

### 9. Interests

#### As a councillor:

- 9.1 I will register and disclose my interests.

*Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority. You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision-making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained. You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011. Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.*

### 10. Gifts and hospitality

#### As a councillor:

- 10.1 I will not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- 10.2 I will register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
- 10.3 I will register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

*In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality, which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.*

## Appendices

### Appendix A – The Seven Principles of Public Life

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B

### Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests, which fall within the categories, set out in Table 1 (Disclosable Pecuniary Interests) which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests, which fall within the categories set out in Table 2 (Other Registerable Interests). "Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below. "Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest that, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest', you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees, they will withhold the interest from the public register.

## Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting that directly relates to one of your Disclosable Pecuniary Interests as set out in Table 1, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

## Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting that directly relates to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting that directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting that affects –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in Table 2 you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.
9. Where a matter (referred to in paragraph 8 above) affects the financial interest or well-being: a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and; b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
- 10 Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it].

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

<b>Subject</b>	<b>Description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land that is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge) — (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of

Securities	Any beneficial interest in securities* of a body where — (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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\* 'director' includes a member of the committee of management of an industrial and provident society. \* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registerable Interests

You must register as an Other Registerable Interest:

- a) any unpaid directorships
- b) anybody of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) anybody
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management

## MEMBER/OFFICER PROTOCOL

### 1. Introduction

Members and officers are indispensable to one another and mutual respect is essential for good local government. Together, they bring the critical skills, experience and knowledge required to manage an effective public sector organisation. However, members and officers have different roles and different expectations.

This protocol is intended to:

- Ensure that there is a clear understanding of the respective roles of members and officers;
- Set out some principles governing the relationship between them;
- Establish some ground rules for the relationship;
- Encourage mutual respect and good communication;
- Allow for the constructive and amicable resolution of any conflict.

The Council is committed to the highest possible standards of operation, integrity, openness and accountability.

Overall, the aim of the protocol is to provide a framework to enable members and officers to work together for the benefit of people who live, work, visit, provide employment or provide services in Uttlesford.

Nothing in this protocol shall prevent or hinder a Council member from fully engaging with officers of the Council, including requesting meetings with officers, attending such meetings or offering information and advice concerning any issue within their wards or wards for which they have responsibility.

### 2. Role of Members and Officers

#### 2.1 Members

Members are democratically elected and have a mandate to represent their ward and to contribute to decisions made by the Council. They are advocates, representatives and community leaders for their ward and the people who live there and will often be seen by their constituents as the local representative of the Council as a whole. If constituents are unhappy about Council services, they will expect their councillor to do something about it.

Members will have a strong knowledge of the area they represent and the issues that affect it. This local knowledge is important in ensuring that good decisions are made, and should be respected. Members are usually, but not always, members of political groups. Political groups are a legitimate aspect of local government democracy.

Members are responsible for setting the budget and policy framework within which the Council works. Beyond this, members may have different roles. Some will be members of the Cabinet and will have a wide-ranging responsibility for making strategic and operational decisions on behalf of the Council. Some will be members of Committees that scrutinise and have oversight of policies and performance. Some will be members of regulatory committees, for example, deciding applications for planning permission and ensuring compliance with licensing conditions.

#### 2.2 Officers

Officers are employees of the Council. Their roles and responsibilities are set out in their contract of employment and job description.

Some are mainly responsible for the delivery of services and work within the policies and standards set by the Council. Others will have a role in developing policies and strategies and in providing professional advice aimed at ensuring that the Council operates in an effective and lawful manner.

As employees, it is important that the Council complies with its legal obligations as employer and with good employment practice.

Officers are not politicians and their loyalty is to the Council as a whole. It is important that their professional integrity and impartiality is respected, especially where they are obliged to give advice that is not welcomed.

**What members can expect from officers:**

- A commitment to the Council as a whole and not to an individual political group
- A working partnership
- A timely response to enquiries and complaints
- Professional advice not influenced by political views or preference
- Integrity, mutual support and appropriate confidentiality
- Respect for the role of a member as an elected representative.

**What officers can expect from members:**

- Political leadership and direction
- A working partnership
- Compliance with ethical standards and probity requirements
- Non-involvement in day-to-day management
- Fairness
- Respect for their position as employees of the Council.

**3. Working Relationships**

3.1 Officers and members are to be guided by these behaviours in their working relationship:

<b>To be:</b>	<b>Not to be:</b>	<b>To be:</b>	<b>Not to be:</b>
Positive	Unhelpful	Discreet	Secretive
Professional	Obstructive	Reliable	Disorganised
Authoritative	Arrogant	Friendly	Friends
Respectful	Discourteous	Communicative	Evasive
Constructive	Imprudent		
Honest			

- 3.2 Officers will provide advice and assistance to individual members in respect of Council including issues raised by constituents. They must not be requested to advise upon private matters.
- 3.3 Officers are employed by, and serve, the whole Council. They are politically neutral and must avoid being identified with any political party. Members must respect this.
- 3.4 The working relationship between senior officers and the Leader and Cabinet will be particularly close. This relationship, however, must not: compromise officers' duties to all members of the Council nor
- be so close as to give the appearance of partiality on the part of officers;
  - undermine the confidentiality of any discussions within the Corporate Management Team or between senior officers and other members;
  - compromise officers' professional responsibility to advise members that a particular course of action should not be pursued;
  - undermine officers' responsibility for action taken under delegated powers.
- 3.5 It is important that in any dealings between members and officers neither should seek to take unfair advantage of their position.
- 3.6 Similarly, an officer must not lobby or use influence on an individual member to make a decision in his or her personal favour. They should not:
- raise personal matters to do with their job;
  - make claims or allegations about other officers;
  - make negative comments on the competency of another officer or member.
- 3.7 In their dealings with officers (especially junior employees), members need to be aware that it is easy for officers to be overawed and feel at a disadvantage. Such feelings can be intensified where members hold official and/or political office.
- 3.8 A member should not apply any pressure on an officer to do work outside of normal duties or normal working hours. A member should not, even in an emergency, contact officers directly, even if they have their mobile phone number. In an emergency or when a matter cannot wait until normal working hours, the correct course will be to call the Council's out of hours number (01799 510510), which will ensure a speedy and coordinated approach. Even in an emergency, pressure should not be put on an officer to do anything that he or she is not empowered to do.
- 3.9 Members should approach officers of appropriate seniority when raising queries. Other than for routine service queries, this is likely to be at service manager level or above. If members wish to meet officers, they should generally make an appointment first. This is partly to allow officers to plan their work and partly because of the need to ensure that personal data, which may be visible in offices, is not inadvertently disclosed - for instance information relating to housing or benefit applications.

## 4. Familiarity

- 4.1 Close personal familiarity between individual members and officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information that should not properly be passed between them, such as personal details.
- 4.2 Such familiarity could also cause embarrassment to other members and/or other officers and give rise to suspicions of favouritism.
- 4.3 Therefore, care should be taken by individual members and officers in their relationship with each other. Members should declare to the Chief Executive any close family, business or personal relationship with an officer. Officers should make sure that their line manager is aware of any similar relationship.

## 5. Communication

- 5.1 Officers should reply promptly and helpfully to correspondence, including emails, received from members. As a minimum, they should meet corporate standards for responses but should also recognise that it will sometimes be appropriate to give priority to correspondence from members. If an immediate reply is not possible, correspondence should be acknowledged and the member kept informed about progress.
- 5.2 Similarly, members should reply promptly and helpfully to communications from officers, especially where a member's view is sought before action is taken.
- 5.3 Written communication between members and officers should always be professional in tone, avoiding the appearance of over-familiarity. There is a particular risk with email of making inappropriate comments. Emails are a permanent record and may be held up to public scrutiny through, for instance, disclosure under freedom of information legislation or in the course of legal proceedings. Officers and members should always be alert to how correspondence would appear if held up to public gaze.
- 5.4 Written communication may not be the appropriate first step where, for instance, the facts are uncertain or a matter is controversial. A telephone call or personal discussion should be considered instead. In all cases, the preferred communication method of individual councillors should be taken into account, if known.
- 5.5 If members raise issues on behalf of constituents, officers should reply in terms that will allow members to give explanations to constituents that are helpful and constructive. Whilst members will hold officers to account, members will, in turn, be held, to account by their constituents for the actions of the Council.
- 5.6 Unless a member or officer requests confidentiality, it will be assumed, that correspondence between a member and an officer is not confidential and may be shown to others. (An obvious exception is where an issue relates to an individual constituent and would normally be treated in confidence). If, in an officer's view, correspondence between an individual member and an officer is of interest to other members, to keep them fully informed, it should be made clear to the original member that copies have been sent to other members.
- 5.7 Where issues are raised by, or with, individual members relating to a matter of general interest in a ward, copies of correspondence may be sent to other members for the ward. However, a member may specifically request that correspondence is not copied to other members.
- 5.8 Official letters sent on behalf of the Council should normally be in the name of the appropriate officer, rather than in the name of a member. It may be appropriate in certain circumstances (e.g.

representations to a Government Minister) for a letter to be signed by a member, but this should be the exception rather than the norm.

## 6. Involvement of ward councillors

- 6.1 Whenever a public meeting is organised by the Council to consider a local issue, all the councillors representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting with the maximum possible notice being given. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Councillors should be consulted at the outset of the exercise.
- 6.2 Ward Councillors should be notified in advance about any issues likely to affect them. This would include press releases relating to a particular Ward or significant matters likely to affect a Ward.
- 6.3 Ward councillors should be copied into correspondence with town or parish councils within their ward unless there is a good reason not to.
- 6.4 Ward councillors should be consulted and involved in significant issues affecting their ward. They will have a strong knowledge of the area they represent and the issues that affect it. This local knowledge is important in ensuring that good decisions are made and should be respected.

## 7. Requests for factual information

- 7.1 Officers will use the Members' Bulletin as the primary means of providing information to members. There are other sources of information available to members, in particular the "Keep Me Posted/ Gov Delivery e-newsletter, to which members are encouraged to subscribe.
- 7.2 All members of the Council are entitled to request information from officers about a Council department or service and the information will be provided unless:
- there is a legal reason why it should not be disclosed (e.g. the information is confidential, commercially sensitive or should not be disclosed under data protection principles).
  - the request for information is for private purposes, rather than in connection with the member's elected role.
  - the relevant Director or Assistant Director considers the request unreasonable in terms of the resources required to provide the information. In case of dispute, the request will be referred to the Chief Executive.
- 7.3 Members making requests for information should allow adequate time for officers to provide it. Requests relating to committee or Council meetings should be made well in advance. If officers are not given enough notice, they may not be able to supply information in time. Late requests can also divert officers from work of equal or greater importance or urgency. Giving timely attention to agenda papers can mitigate this risk.
- 7.4 Members do not need to rely on Freedom of Information rights to ask for information, as they have a statutory right of access to information held by the Council, subject to a "need to know" test. This is wider than the rights given to members of the public. In some cases (for instance, where it involves third party personal information) there may be a need for confidentiality. In case of doubt or dispute, the Monitoring Officer will provide advice.

## 8. Officers' reports and advice

- 8.1 The Director/Senior Officer in whose name a report to the Council (or any part of its formal decision-making structure) is submitted will always be fully responsible for the contents of it. It is essential that any proposals from members in reports to committees be clearly identified as such.
- 8.2 A draft or final report will only be amended where the suggested amendment also reflects the professional judgement of the author of the report. Any dispute between a member and the officer responsible for the report that cannot be resolved shall be referred to responsible Director or to the Chief Executive for resolution.

8.3 On occasions, officers will need to express a professional view on a matter that may not support the view of members and/or senior officers. They must be allowed to do so without interference from, or victimisation by, members or other officers.

8.4 At some committee meetings, a resolution may be passed which authorises named officers to take action between meetings in consultation with a member. It must be recognised that it is the officer, rather than the member, who takes the action and it is the officer who is accountable for it.

## **9. Officer advice to members and party groups**

9.1 It must be recognised by all officers and members that in discharging their duties and responsibilities, officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual member of the Council.

9.2 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business. Officers may properly be called upon to provide information to party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner. This means that, on occasions, information requested by one group will in fact be provided to all.

9.3 The support provided by officers can take many forms, including a briefing meeting with the executive, an executive member, or the Chair/Vice Chair of a committee prior to a committee meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, support is available to all party groups.

9.4 Scrutiny committees have the power to require Cabinet Members and officers to appear before them and answer questions. As a matter of convention, the Council's scrutiny committees will only require the attendance of the Chief Executive, Directors and Assistant Directors. However, to facilitate proper conduct of business, these senior officers may arrange, as necessary, for other officers to attend meetings to assist.

9.5 The Chief Executive, Directors and Assistant Directors may, in exceptional circumstances, be invited to attend political group meetings to explain or to advise on policies and/or issues provided that this facility is available to all political groups represented on the Council. Officer attendance at group meetings will usually be at Assistant Director, Director or Chief Executive level. More junior officers should not generally be asked to attend group meetings and, if they are, they should first obtain permission of a Director or the Chief Executive.

9.6 Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business and should not be present when matters of party business are to be discussed.

9.7 Special care needs to be exercised by officers when involved in providing information and advice to a party group meeting that includes persons who are not members of the Council. Such persons are not bound by the Council's Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and confidential information should not be disclosed.

9.8 Officers must respect the confidentiality of any party group discussions at which they are present.

9.9 Party group meetings are not empowered to make decisions on behalf of the Council. Conclusions reached at group meetings are not Council decisions and should not be interpreted or acted upon as such.

9.10 Where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice

to the executive, executive member or relevant committee when the matter in question is considered.

## **10. Constructive criticism & redress**

10.1 It is important that there should be mutual courtesy between Members and officers. It is important that there are reasonable standards of courtesy and no member or officer should seek to take unfair advantage of their position.

10.2 Members have the right to criticise reports or the actions taken by officers but they should:

- always avoid personal attacks on officers;
- ensure that criticism is constructive and well-founded;
- take up an individual concern with the officer privately, where possible; I avoid criticising officers in the media or social media.

10.3 Members should not raise matters relating to the conduct or capability of an officer at Cabinet and committee meetings or in any public forum. This could be damaging both to effective working relationships and to the image of the Council. An officer has no means of responding to such criticisms in public.

10.4 If a member considers that he or she has not been treated with proper respect or courtesy, and fails to resolve it through direct discussion with the officer, he should raise the matter with the appropriate Director or Assistant Director. The Director or Assistant Director will look into the matter and report back to the member. If the member continues to feel concern, they should then report it to the Chief Executive who will look into the matter afresh. A complaint about a Director or an Assistant Director should be raised with the Chief Executive. A complaint about the Chief Executive should be raised with the Leader.

Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the Council's disciplinary rules and any statutory provisions that may apply.

10.5 If an officer considers that he or she has not been treated with proper respect or courtesy, and a direct discussion is impractical or fails to resolve the matter, he or she should raise the matter with their line manager or Director immediately. In such circumstances, the Director will take such action as is appropriate either by approaching the individual and/or Party Group Leader. The Director will inform the Chief Executive if the Party Group Leader becomes involved, or in any other case where it is appropriate. Feedback should be given to the officer on the outcome.

10.6 The Council operates a confidential whistle-blowing policy. The Council is committed to the highest possible standards of operation, integrity, openness and accountability. It is expected that where an officer or member is concerned about potential unlawful conduct of an officer or member, they voice those concerns so that they can be dealt with effectively.

## **11. Officers' advice on declarations of interest**

11.1 The Council's Monitoring Officer will on request provide advice and information to members on declarations of interest of a personal nature and whether or not such an interest might amount to a disclosable pecuniary interest or a prejudicial interest.

However, members will know the nature and extent of any interest they may have. It is the member's responsibility, therefore, to decide whether any interest should be declared.

## **12. Officer decisions taken under delegated powers**

12.1 When making a decision under powers delegated to an officer, it must be recognised that it is the officer, and not any member, who takes the action and it is the officer who is accountable for it.

### **13. Media Liaison**

- 13.1 Communications with the media can be an important part of a member's workload, such as responding to queries. In any media contact, members and officers should always have regard to the reputation of the Council. Generally, members provide comments and views and officers provide information. This information may well include explaining the Council's policy on a particular issue. If any member is unsure about the facts of any issue, he should contact the Communications Team or appropriate officer, or ask the media representative to do so. Members should avoid being seen to anticipate decisions and should not criticise officers in the media or via social media networks which may be accessible to the public.
- 13.2 If a member contacts or is contacted by the media he should indicate in what capacity he is speaking e.g. in a personal capacity, as a member of the executive, as a ward member, as Chair of a committee, on behalf of the Council or on behalf of his political group. Members should avoid giving the impression they are speaking on behalf of the Council when expressing a personal view. If a member is contacted by the media, it may be useful to inform the Communications Team of the query or discussion; the Communications Team may offer guidance on the nature of the response where it is appropriate to do so.
- 13.3 It is the role of the Communications Team to publicise decisions and services, and to enhance and protect the reputation and profile of the Council. In this regard, members should refer to the Council's Media Relations Protocol. The Media Relations Protocol provides guidance on the work undertaken by the Communications Team, and sets out the responsibilities of officers and members acting as media spokespeople in written and verbal communications. It also references the legal obligations of the Council in publishing material, and the Government's Code of Recommended Practice on Local Authority Publicity, which covers the rules around content, and style of publicity, distribution, advertising, promotion of individual councillors and restrictions during the election period.

### **14. Unresolved issues and amendments to this protocol**

- 14.1  
If there are any issues of concern that are not dealt with by this Protocol, then the relevant member or officer may discuss the matter with the Chief Executive with a view to advice being provided.
- 14.2  
Should any Member or officer wish to suggest an amendment to this protocol, he/she is asked to contact either the Chief Executive or the Monitoring Officer.
- 14.3  
Any amendments require approval of Council on the recommendation of the Governance, Audit and Performance Committee. The Standards Committee and any other relevant body may be consulted on issues raised by the protocol and on proposed amendments when appropriate.

**ANTI-FRAUD POLICY STATEMENT**

1. The Council is committed to the highest possible standards of openness, probity and accountability.
2. The Council condemns the theft of Council property and personal belongings of staff.
3. The Council has well defined procedures to deal with financial irregularity, theft and corruption whether perpetrated by its employees, councillors, members of the public, contractors or suppliers of goods and services.
4. The Council's affairs and the actions and omissions of employees are regularly open to scrutiny, for example by:
  - The external auditor
  - The public, e.g. complaints procedure, inspection of records | Council tax payers - annual inspection of accounts
  - The business community - annual business consultation
  - HM Revenue and Customs
  - Department of Social Security
  - Local Government Ombudsman
6. In addition, there is internal scrutiny applied by the Council through Internal Audit services.
7. If you suspect a Council employee, councillor, member of the public, or contractor or anyone with business dealings with the Council of fraud, corruption or theft you should contact the Internal Audit Section on 01799 510610, the Monitoring Officer on 01799 510510, or the Chief Executive on 01799 510510. All allegations are treated as confidential and thoroughly investigated. You will be advised of the outcome of the investigation.
8. If for any reason you feel unable to raise your concerns through any of the above routes, you may wish to raise them through

Protect (formerly known as Public Concern at Work) (telephone 020 3117 2520), a registered charity whose services are free and strictly confidential.

**ANTI-FRAUD POLICY - GUIDANCE****1. Introduction**

- 1.1 The Council believes that all its employees have a responsibility to be alert to the possibility of theft and fraudulent or corrupt practices. An effective policy on fraud, corruption and theft provides a means by which proper supervision and public accountability may be maintained.
- 1.2 The Council expects that individuals and organisations (e.g. contractors, suppliers of goods and services) with which it comes into contact will act towards the Council with integrity at all times.

**2. Definitions**

- 2.1 Fraud is defined by the Audit Commission as "the intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain".
- 2.2 Corruption is defined by the Audit Commission as "the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person."

- 2.3 Theft is defined in the Theft Act 1968 as "A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it".
- 2.4 Council property includes plant and equipment, furniture, depot and office supplies, including: stationery, photocopying paper, envelopes, computer software and hardware.
- 2.5 Personal belongings are the responsibility of the employee. Each employee must take adequate steps to ensure the safe keeping of his belongings whilst on Council premises and/or on Council business.
- 2.6 The Council has no liability for the loss of personal belongings from its premises or vehicles.

### **3. Policies and Procedures**

- 3.1 The Council has a number of policies and procedures in place that are designed to aid in the prevention, detection and investigation of fraud, corruption or theft. These are set out in the following documents:  
Financial Regulations,  
Gifts and Hospitality Guidance,  
Disciplinary Rules and Procedures,  
Whistleblowing Policy,  
Confidential Reporting Code, and  
IT Security Policy.
- 3.2 The Council has appointed its Assistant Chief Executive Legal to act as the lead officer in connection with its Anti-Fraud Policy. If an employee is concerned that an act that is being proposed to him be it by another employee, a councillor, contractor or supplier may constitute fraud, corruption or theft, he should contact his Director, the Internal Audit Section, the Monitoring Officer, the Chief Finance Officer or the Chief Executive.  
In addition, all employees are required by the Council's Financial Regulations to report all suspected irregularities to their Director who should immediately inform the Assistant Chief Executive: Legal. Reporting is essential to the Council's Anti-Fraud Policy and Confidential Reporting Code.
- 3.3 Investigations will usually be undertaken by Internal Audit Services who will have direct and full access to all records. Where financial impropriety or theft of Council property or staff personal belongings is discovered the matter may be referred to the Police, with a view to prosecution of the perpetrator(s).
- 3.4 The external auditor also has powers to investigate independently fraud, corruption and theft and the Council can make use of these services.

### **4. Employee Protection**

- 4.1 The Public Interest Disclosure Act 1998 promotes accountability in the public, private and voluntary sectors by encouraging people not to ignore malpractice in the workplace. It encourages the adoption of whistleblowing procedures. It will help to ensure that organisations:
- 4.1.1 respond to the message rather than shoot the messenger;
  - 4.1.2 resist the temptation to cover up serious malpractice; and
  - 4.1.3 protect employees who report fraud or corruption from being victimised or dismissed.

- 4.2 In addition to employees, the Act covers trainees, agency staff, contractors and suppliers. The usual employment law restrictions on minimum qualifying period and age do not apply to this Act.
- 4.3 An employee disclosing information to those referred to in paragraph 3.2 above will be protected providing they have an honest and reasonable suspicion that fraud, theft or corruption has occurred, is occurring or is likely to occur.
- 4.4 This Act does not protect from disciplinary action employees who make malicious and/or vexatious allegations.

## CODE OF GOOD PRACTICE: PROBITY IN PLANNING

### 1 Introduction

- 1.1 Planning is not an exact science. Rather, it relies on informed judgement within a firm policy context. It can be highly contentious. It is important that the process be characterised by open and transparent decision-making.
- 1.2 One of the key purposes of the planning system is to control development in the public interest. Performing this role, planning necessarily affects land and property interests, particularly the financial value of land holdings and the quality of their settings. It is important, therefore, that the Council makes planning decisions affecting those interests openly, impartially, with sound judgement and for justifiable reasons. There should be no grounds for suggesting that a decision has been biased, not impartial or not well founded in any way.
- 1.3 This Code applies to all councillors (whether or not they are members of the Planning Committee) at all times when they involve themselves in the planning process. This includes both decision-making meetings of the Council and less formal situations, such as meetings with officers or the public and consultative meetings

### 2. Conduct of Councillors and Officers

#### 2.1 General

##### 2.1.1

Councillors and officers have different, but complementary roles both serving the public. Councillors are responsible to the electorate; officers are responsible to the Council as a whole.

##### 2.1.2

Both councillors and officers are guided by codes of conduct. The Councillors' Code of Conduct provides guidance on standards for councillors. Breaches of the Code may be regarded as maladministration by the Local Government Ombudsman and may lead to a councillor being reported to the Standards Committee. Such a report may result in sanctions being imposed upon the councillor concerned. Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of the Code may be subject to disciplinary action by the Institute. In addition to these codes, the Council's Procedural Rules set down rules that govern the conduct of Council business.

##### 2.1.3

Councillors must not instruct officers to make a particular recommendation nor to take a particular course of action other than through a decision of the Council or one of its committees. Officers must give objective, impartial planning advice, based on their professional judgement and not be compromised or influenced by political considerations. Chartered Town Planners may only advocate their own professional view.

#### 2.2 Public Duty

Councillors have a special duty to their ward constituents including those who did not vote for them. However, their overriding duty is to the whole community. The Council's District Plan is adopted in the interests of the whole community, following public consultation. It therefore reflects the overall public interest, rather than those individuals or organisations. Councillors and officers must support the Council's planning policies and make decisions in accordance with them, unless there are sound planning reasons for not doing so.

## 2.3 Voting and Impartiality

### 2.3.1

Notwithstanding the provisions of s.25 Localism Act 2011, members of the Planning Committee should not declare which way they intend to vote in advance of the consideration of an application. To do so may indicate pre-judgment of the application and expose the Council to the possibility of legal challenge, as the exact meaning of s.25 has yet to be determined by the courts. Further, even if s.25 does prevent a legal challenge to the validity of a decision it offers no protection against allegations of maladministration or a breach of the Code of Conduct. Members should not make up their minds until they have read the relevant committee reports, heard the evidence and considered the representations. It is important that members hear all the evidence and representations prior to reaching a decision.

Consequently, members should ensure that they are present in the Council Chamber/Committee Room at all times whilst an item is being discussed. In the event that a member arrives after consideration of a particular item has commenced or leaves the Council Chamber/ Committee Room during the consideration of an item and then returns then that Member should not vote on that item.

### 2.3.2

Councillors who are also members of town or parish councils may find that they are expected to express a view at a Town or Parish Council meeting or vote on whether the town or parish council should object or comment on a proposal from its point of view. In such circumstances they should not declare outright support or opposition for a proposal and if they chose to vote should make clear that they may find themselves having to vote differently when sitting on the committee, having heard the evidence, technical and legal background from officers. In particularly contentious cases, councillors are advised to abstain from the town or parish council vote to make clear that they are not prejudicing the decision they will have to make as a district councillor. This will assist in ensuring that the propriety of their vote at the Council's committee meeting cannot be challenged.

### 2.3.3

If a councillor does declare his outright support for or opposition to a proposal at a town or parish meeting or elsewhere before the matter has been put before the committee where that councillor would be entitled to vote he should, if attending the committee meeting when the matter is being discussed or reported, make an open declaration to that meeting to that effect and take no part in the voting on that item. This does not mean that councillors on the committee cannot make a comment or reflect local concerns about a proposal before it is considered. However, the view or comment should not pre-determine or be seen to pre-determine the way the councillor will vote.

### 2.3.4

Councillors should not organise support for or against a planning application and should not lobby other councillors since this would also signal that they had made up their mind before hearing the evidence. Each councillor should make up his own mind on the evidence and facts presented to the committee.

### 2.3.5

The basis of the planning system is the consideration of private proposals against wider public interests. Opposing views are often strongly held by those involved. Whilst councillors should take account of various views expressed on an application, they should not favour or show bias against or towards any particular person, company or group or any particular site or locality. They should not put themselves in a position where they may appear to do so.

## 2.4 Gifts and Hospitality

Councillors should be very cautious about accepting gifts and hospitality and must follow the Councillors' Code of Conduct. They should also have regard to the Guidance on receipt of gifts and hospitality in Part 5 of the Members' Handbook. Officers should follow that Guidance.

## 2.5 Declaration and Registration of Interests

### 2.5.1

The Councillors Code of Conduct sets out requirements and guidance for councillors, for the registration and declaration of interests, these must be followed scrupulously and councillors should review the situation regularly. It must be borne in mind that not only should impropriety be avoided but also any appearance, or grounds for suspicion, of improper conduct. Responsibility for this rests individually with each councillor. When declaring an interest at committee this should be done at the beginning of the meeting and councillors should be clear and specific in identifying the item on the agenda in which they have a pecuniary or non-pecuniary interest and if so the nature of that interest.

### 2.5.2

Officers must declare any personal or financial interest in any planning matter before the Council must not deal with such matters on behalf of the Council and must not give advice to councillors or other officers on them. An officer with a personal or financial interest in a planning matter must withdraw from any relevant committee meeting whilst that matter is discussed. Planning officers must maintain their professional integrity and should avoid becoming associated in the public mind with representatives of the development industry or environmental or other pressure or amenity groups.

## 2.6 Development Proposals Submitted by Councillors and Officers

### 2.6.1

Proposals to Council by serving and former councillors and officers and their close friends and relatives could easily give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way to give no grounds for accusations of favouritism. Applications that are recommended for approval will be reported to the committee and not dealt with by officers under delegated powers.

### 2.6.2

When the councillor or employee has left the council, after a period of 2 years the application can if appropriate, be dealt with under delegated powers.

### 2.6.3

Serving councillors, who act as agents for people pursuing a planning matter with the Council or submitting planning applications on behalf of their employers as part of their job, must declare an interest and take no part in the processing of the application or in the decision-making process. Any councillor who is a planning or similar agent will not be appointed to the committee.

### 2.6.4

Members of the committee should not act as agents or submit planning applications for other parties or voluntary bodies. To do so would give rise to suspicion that the committee was not impartial or may be influenced in the decision making process.

### 2.6.5

The procedures set out in the paragraphs 2.6.1 - 2.6.3 above shall also apply in relation to determining applications and notifications to carry out works to trees.

## 2.7 Council Development

The Council's own proposals for development and determining applications and notifications to carry out works to trees must be dealt with on exactly the same basis as applications submitted by members of the public. Officers must make recommendations having regard only to proper planning or tree matters and must not have regard to any other benefits, financial or otherwise, which may accrue to the Council as a result of any particular decision on a planning or tree proposal. Councillors must make decisions similarly. Such applications will be reported to the committee and not dealt with by officers under delegated powers.

## 2.8 Lobbying of and by Councillors

### 2.8.1

Lobbying is an attempt to influence councillors' views in order to achieve a particular decision. It can be of councillors by applicants, agents or objectors or by other councillors. Lobbying may be verbal or by the circulation of letters or documents to all or some councillors. Planning decisions must be made strictly on the facts and policies relating to each application. Lobbying can, unless care and common sense are exercised by all parties concerned, lead to the impartiality and integrity of a councillor being called into question. Notwithstanding the provisions of s.25 Localism Act 2011 when being lobbied, councillors, and members of the committee in particular, should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such circumstances they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should speak or write to the relevant officer in order that their opinions can be included in the officer's report to the committee. If they do express an opinion, they should make it clear that they will only be in a position to take a final decision after having received and considered all the relevant evidence and arguments at committee.

### 2.8.2

A committee member who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If a member responds to lobbying by deciding to go public in support of, or against, a particular outcome it would be very difficult for that member to argue convincingly when the committee takes its decision that he has carefully weighed the evidence and arguments presented at committee. Although not amounting to a disclosable or other pecuniary interest according to the Code of Conduct the proper course of action for such a member would be to make an open declaration not to vote. However, this is a severe restriction on the member's wish - duty, even - to represent the views of the electorate. Thus, councillors should, generally, avoid organising support for or opposition to a planning application and avoid lobbying other councillors. Such actions can easily be misunderstood by parties to the application and by the public. Where a member makes a declaration that he or she will not vote then the member should withdraw from the committee table but may remain in the room and speak on behalf of his or her ward members either for or against the application.

## 2.9 Circulation of Information

Planning applications must be determined on the basis of the documents and information formally submitted. Any submissions from applicants, agents or objectors that are formally received by the Council can properly be taken into account in making a decision. It can cause problems if councillors are given information or assurances by applicants which are not part of the formal application and which are not, therefore, enforceable.

Problems can also arise if councillors are given information by objectors that may be misleading, untrue or irrelevant. It can be problematical if officers are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the committee about their relevance or enforceability. Councillors should forward such information to the officers for consideration prior to the committee meeting.

## 2.10 No Political Decisions on Planning Applications

Decisions on planning applications must not be taken in political group meetings prior to committee meetings. The view of the Ombudsman was that the use of political whips to influence the outcome of a planning application was contrary to the National Code and amounted to maladministration. There is nothing in the Localism Act 2011 nor the Councillors' Code of Conduct that would contradict this view. It could also give rise to legal challenge.

## 3. The Decision-Making Process

### 3.1 Pre-application Discussions

#### 3.1.1

Discussions between a potential applicant and the Council (through its planning officers) prior to the submission of the application can be of considerable benefit to both parties and is encouraged by the Audit Commission, the Local Government Association and the National Planning Forum. It should always be made clear at the outset that the discussions will not bind the Council to make a particular decision and that any views expressed are personal and provisional. Advice should be considered and based upon the development plan and material considerations. There should be no significant difference of interpretation of planning officers. In addition, all officers taking part in such discussions should make clear whether or not they are the decision maker. A written note should be made of all potentially contentious meetings and telephone discussions. A follow up letter may be advisable, especially when documentary material has been left with the Council.

#### 3.1.2

Councillors should not seek to advise applicants or agents about the likely acceptability of planning proposals. They should advise prospective applicants to contact the appropriate officer for advice on both merits and procedures. They should make it clear that they will only be in a position to take a decision after having considered the officers' reports and any representations and heard any debate in the committee meeting.

#### 3.1.3

Councillors should not meet applicants, agents, or third parties in connection with a current or proposed application. If councillors do agree to meet, they should only do so in the presence of a planning officer. In exceptional circumstances, where it is not possible to arrange a meeting in the presence of a planning officer without causing undue delay councillors should notify the relevant planning officer of the proposed meeting beforehand and the notification recorded in the application file. Councillors should listen and may ask questions but should not comment or negotiate. They must make clear that any views they express are personal, rather than those of the Council. A note should be taken of the meeting and placed on the application file. The fact that a councillor has discussed any proposal with the applicant, agent, supporters or objectors must be made clear when the application is before the committee for determination.

#### 3.1.4

If councillors receive information that is relevant to a planning decision, they must declare that information to the relevant planning officers and to the committee. Discussions with applicants, agents or objectors should be reported and any correspondence made available to officers before the committee meeting.

### 3.1.5

Paragraphs 3.1.2 to 3.1.4 above do not apply to councillors when they are acting as agents for people pursuing a planning matter with the Council or submitting planning applications on behalf of their employers as part of their job. However, they should make it clear to their clients that they cannot and will not use their position as a councillor to influence the outcome of an application.

### 3.1.6

Any councillor may request that an application delegated to officers for determination be reported to committee for determination.

## 3.2 Reports to Committee

Officer reports to committee should be accurate and cover, amongst other things, the substance of objections and views of consultees. Relevant points should include a clear exposition of the development plan, the site, its related history and any other material considerations. Reports should contain a clear written recommendation. Oral reporting (except to update a report) should be extremely rare and carefully minuted when it does occur. If the report's recommendation is contrary to the provisions of the development plan the material considerations that justify this must be clearly stated.

## 3.3 Committee Procedures and Decision

### 3.3.1

Pre-committee briefing meetings between officers and councillors are not part of a formal committee proceeding. They must always be after the agenda has been set and officers' recommendations have been made. The purpose of the meetings is to inform the Chair/Vice-Chair on planning issues, the reasons for officer recommendations and to give the Chair/Vice-Chair an opportunity to give notice of or to be told about any potential problems or the need for more information.

### 3.3.2

Councillors should endeavour to obtain information from officers prior to the meeting. This can assist in reducing delays that may be caused by deferral to obtain further information.

### 3.3.3

The committee's decision must be in accordance with the provisions of the development plan unless material considerations indicate otherwise. When councillors propose to make a decision contrary to officer recommendation, the proposer must set out clearly the reasons for so doing. The Chair will ensure that the planning officer is given an opportunity to comment before a vote is taken. Any decision contrary to the provisions of the Development Plan must be clearly justified and recorded in the Minutes.

### 3.3.4

Any information received after preparation of the committee report that is relevant to the determination of an application will be summarised on the supplementary representation sheet circulated prior to the meeting. Any information or documents received after its printing will be verbally reported to the meeting. In certain circumstances, consideration of the application may need to be deferred.

## 3.4 Deferrals

The decision on any application should not be deferred without proper justification. Justification for deferring a decision might be for one of the following reasons:

- Additional information necessary for determining the application is required
- Councillors decide that a site visit is required

A site visit is not part of the formal committee proceedings and is not a forum for debate or for making planning decisions. Site visits are not open to the public and should not be used to canvass local opinions or as an opportunity for lobbying or advocacy. Councillors should not express personal opinions during site visits.

### **3.5 Public Attendance at Committee Meetings**

#### **3.5.1**

All planning applications, other than those determined by officers exercising delegated powers, will be considered in public session and all background information will be made available for public inspection upon publication of the agenda papers, unless there are specific reasons for exempting information in accordance with the Local Government Act 1972.

#### **3.5.2**

Applicants, agents and members of the public, representatives of parish councils and members of the Council who are not members of the committee may speak at the meeting. The procedures for notifying the Council and speaking are set out in part 5 of the Constitution.

### **3.6 Site Visits**

Site visits can cause delay and additional costs and should only be used when the expected benefit is substantial. A site visit is only likely to be necessary if the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers. The reason for requesting a site visit must be clearly set out by the proposer and recorded in the Minutes. All site visits must be carried out in accordance with the Council's agreed procedures set out in Appendix 1 to this Code. A site visit is not part of the formal committee proceedings and is not a forum for debate or making planning decisions. Site visits are not open to the public and should not be used to canvass local opinions or as an opportunity for lobbying or advocacy. Councillors should not express personal opinions during site visits.

## **4. Administrative Matters**

### **4.1 Member Training**

Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices, either verbally at meetings or as briefing notes (for example in the Members' Bulletin). Officers will arrange an annual basic mandatory training session for Councillors who are members or substitute members of Planning Committee. This training must be undertaken before participating in decision making at Planning Committee. All members of the Council who are not on Planning Committee or a substitute member of planning committee will be invited to attend on a voluntary basis. Officers will arrange and offer (in consultation with the Chair of Planning) a programme of topic focussed training to run throughout the year. Topics to include review of decision made, visits to implemented schemes and updates on changes to planning law.

### **4.2 Monitoring of Decisions**

The Council should monitor planning decisions taken, on an annual basis, both in terms of quality and consistency. Annually, councillors will visit a sample of implemented planning permissions to assess the quality of the decisions. The committee should formally consider the annual report and decide whether it gives rise to the need to review any policies or practices. The review may include information identifying the number of cases where officers' recommendations were not accepted and the outcome of any related appeal decisions. The results of the monitoring will be reported to councillors along with any recommendations to improve quality, consistency or performance.

### **4.3 Record Keeping**

The planning application files should be complete and accurate containing sufficient information and itemising events so that the reason for the decision can be easily understood. Only "background papers" as defined in the Local Government Act 1972 are automatically available as a right to third parties. These would include, in addition to the application document, associated letters and supporting information, replies from consultees and letters from supporters and objectors. The same principles apply to applications determined under officers' delegated powers. Such decisions should be as well documented and recorded as those taken by councillors. These principles apply equally to enforcement and development framework matters.

### **4.4 Complaints**

Any complaints received about the way in which a planning application or other planning matter has been dealt with in terms of procedures or fairness will be investigated under the Council's complaints procedure. The fact that someone may disagree with the decision the Council has reached is not a complaint that will normally necessitate investigation as such. However, officers will explain the reasons for the Council's decision in any particular case.

## PLANNING COMMITTEE PROCEDURE FOR MEMBERS' SITE VISITS

### 1. Procedure

#### 1.1

The decision to visit the site of a current planning application is taken by the Committee and the reasons are recorded in the minutes of the meeting. The Divisional Head: Planning and Building Control is also authorised to organise a meeting if it is necessary in advance of a committee meeting.

#### 1.2

The purpose of the site visit is to acquaint members with the site, not to hold a debate or take a decision other than at the Committee Meeting.

#### 1.3

Site visits normally take place during the morning of the relevant meeting.

#### 1.4

The applicant or his agent is notified of the visit and requested to make access available and peg out the proposed location of the building(s), if appropriate. The applicant may attend the site visit, but may not make any representations.

#### 1.5

Two representatives of the town or parish council may attend but may not make representations.

#### 1.6

The local District Council member(s) is/are notified and he should contact the Chair if he wishes to attend but may not make representations at the site visit.

#### 1.7

On site, the Chair usually states the reasons for the visit and invites the planning office to run briefly through the proposal. Members should remain in one group for the duration of the visit.

#### 1.8

Sometimes, neighbours and other interested persons are also at the site, particularly if it is next to public land. The landowner has the right under common law to exclude anyone from his land if he so chooses. Members are requested to ignore unauthorised representations.

### 2. Notes

#### 2.1

Apologies for absence from members to the Chair assist in the conduct of the meeting and timekeeping.

#### 2.2

Should a member be delayed or in any doubt about the location of a site, he should contact the Chair.

## PROCEDURE FOR PARISH/TOWN COUNCIL REPRESENTATIVES/ MEMBERS OF THE PUBLIC ATTENDING MEETINGS OF THE PLANNING COMMITTEE

### 1. Agendas

- 1.1 The Council will send out the agenda sheets for all committee meetings to all parish and town councils, unless a parish/town council has specifically requested not to receive any agendas.
- 1.2 The agenda sheets will be sent out a week before the meeting.
- 1.3 If the parish/town council would like a copy of a particular report, the clerk should telephone the committee officer listed at the end of the agenda.

### 2. Attendance by Parish/Town Councillors and Members of the Public

#### 2.1

Town/parish councils and applicants/agents, objectors and supporters may make representations on all applications. If an application is recommended for approval and there are no registered speakers against the application the applicant/agent will not have the right to make representations.

#### 2.2

Two representatives of the town or parish council may also attend site visits. (see Procedure for Members' Site Visits above).

#### 2.3.

A town or parish council representative and members of the public may attend the meeting and speak on any application. They must register with the Democratic Services Officer at Uttlesford District Council (telephone 01799 510410) or email: [committee@uttlesford.gov.uk](mailto:committee@uttlesford.gov.uk) by 2pm on the day before the meeting.

The order of speaking for each application will be as follows

1. Non-committee member
2. Supporters
3. Objectors
4. Town or parish council
5. Applicant or Agent

A town/parish council representative may speak for up to 5 minutes, members of the public may speak for up to 4 minutes. Applicants and their representatives may speak for up to 15 minutes. Ten speaking slots are available between supporters/ objectors.

At the meeting, those making representations should sit in the public area until the relevant item is to be considered.

Those making representations should sit at the allotted desk alongside members to make their statement and having made their statement should then return to the public area (or leave the meeting).

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## PROTOCOL FOR CALLING IN PLANNING APPLICATIONS

### 1. Introduction

- 1.1 Uttlesford District Council is the local planning authority for the district of Uttlesford. As such, it is responsible for taking decisions on planning applications within the District. Under the Town and Country Planning Act 1990 decisions on planning applications must be taken in accordance with the development plan unless material planning considerations indicate otherwise.
- 1.2 Most applications are dealt with by officers under delegated powers. Officers have power to refuse any applications that are not in accordance with the development plan and have delegated authority to grant planning permission in specified cases where the proposed development does accord with the development plan. The full scope of the delegated powers can be found in the Members' Handbook.
- 1.3 This protocol sets out the procedures to be followed when a member wishes an application for planning permission that can be dealt with by officers under delegated powers to be considered by the Planning Committee ("calling in an application").

### 2. Procedure for calling in an application

- 2.1. Any member of the council may call in an application that would fall to be dealt with by officers under delegated powers regardless of where the application site is situated within the District.
- 2.2. If a member is considering calling in an application for a site in a ward in respect of which that member is not a ward member then before calling in the application the member shall inform the member or members for that ward of the intention to do so.
- 2.3. A request for a planning application to be called in must be -
- 2.3.1. In writing (including e-mail)
  - 2.3.2. Made within 4 weeks of the validation date (which may be ascertained from the Council's website)
  - 2.3.3. State if the application is to be called in if the officer recommendation is for approval or refusal (but not both)
  - 2.3.4. Give valid planning reasons for requesting that the application be called in.

### 3. Invalid call-ins

- 3.1 A request for a call-in may be rejected by the Assistant Director for Planning and Building Control if they are not satisfied that the reasons given for the call-in are planning reasons.
- 3.2. An application should not be called in merely because it is controversial. Applications should only be called in where there are planning reasons for disagreeing with the officer recommendation.
- 3.3. Members should not call in an application because they are requested to do so by an applicant, an objector or a parish or town council unless the member concerned is satisfied that there are planning reasons for disagreeing with the officer recommendation.
- 3.4. Members should not call in an application made by or opposed by a related person (as defined by the Code of Conduct of Uttlesford District Council) under any circumstances

## CODE OF GOOD PRACTICE: PROBITY IN LICENSING

### 1. Introduction

- 1.1 The Licensing Act 2003 transferred control of Licensing from magistrates to local authorities. Although the licensing function is by law delegated to the Licensing Committee all members of the Council may become involved in dealing with applications e.g. by representing the views of constituents or debating upon the Council's Licensing Policy. Decisions must be taken to promoting the licensing objectives and with regard to the Council's Licensing Policy and Government guidance. Applications can be highly contentious. It is important that the process is characterised by open and transparent decision-making.
- 1.2 The Licensing Act seeks to balance freedom of greater choice in how people spend their leisure time with safeguards to prevent crime and nuisance, to ensure public safety and to protect children from harm. Performing this role, licensing necessarily affects licensees, those living or carrying on business near licensed premises and the public at large. It is important, therefore, that the Council makes licensing decisions affecting those interests openly, impartially, with sound judgement and for justifiable reasons. There should be no grounds for suggesting that a decision has been biased, not impartial or not well founded in any way.

### 2. Conduct of Councillors and Officers

#### 2.1 General

Councillors and officers have different, but complementary roles.

- 2.1.1 The Councillors' Code of Conduct provides guidance and standards for councillors. Breaches of the Code may be regarded as maladministration by the Local Government Ombudsman and may lead to a councillor being reported to the Standards Committee. Such a report may result in sanctions being imposed upon the councillor concerned. In addition to the Code of Conduct, the Council's Procedure Rules set down rules that govern the conduct of Council business. The Licensing Act 2003 (Hearings) Regulations 2005 also contain provisions for the conduct of hearings under the 2003 Act.
- 2.1.2 Officers from different departments within the Council also have different roles with regard to licensing. Licensing officers are responsible for the administration of licences. As such, they must be impartial and not express a view on applications. In particular, reports from licensing officers will not contain any recommendations. Environmental Health, Licensing and Planning are statutory consultees on applications. Officers from these departments will make representations on some applications and will suggest conditions or even that a licence should be refused with in those representations.
- 2.1.3 Councillors must not instruct officers from any department to make a particular representation nor to take a particular course of action other than through a decision of the Council or one of its committees. Officers must give objective professional advice, based on their professional judgement and not be compromised or influenced by political considerations.

#### 2.2 Public Duty

- 2.2.1 The Councillors' Code of Conduct sets out the duties and responsibilities of councillors. It states that, whilst councillors have a special duty to their ward constituents including those who did not vote for them, their overriding duty is to the whole community. The Council's Licensing Policy is adopted in the interests of the whole community, following public consultation. It therefore reflects the overall public interest, rather than those of individuals or

organisations. Councillors and officers must support the Council's Licensing Policy and make decisions in accordance with it unless there are sound reasons for not doing so.

## 2.3 Voting and Impartiality

### 2.3.1

Notwithstanding the provisions of s.25 Localism Act 2011, members of the Licensing Committee should not declare which way they intend to vote in advance of the consideration of a matter. To do so may indicate pre judgement and expose the Council to the possibility of legal challenge as the exact meaning of s.25 has yet to be determined by the courts. Further, even if s.25 does prevent a legal challenge to the validity of a decision it offers no protection against allegations of maladministration or a breach of the Code of Conduct. Members should not make up their minds until they have read the relevant committee reports, heard the evidence and considered the representations. It is important that members hear all the evidence and representations prior to reaching a decision. Consequently, members should ensure that they are present in the Council Chamber/ Committee Room at all times whilst an item is being discussed. In the event that a member arrives after consideration of a particular item has commenced or leaves the Council Chamber/Committee Room during the consideration of an item and then returns then that Member should not vote on that item.

### 2.3.2

Councillors who are also members of town or parish councils may find that they are expected to express a view at a town or parish council meeting or vote on whether the town or parish council should object or comment on a proposal from its point of view. In such circumstances, dual-hatted members who sit on the Licensing Committee should not declare outright support or opposition for a proposal and should abstain from voting to make clear that they are not prejudicing the decision they will have to make as a District Councillor. This will assist in ensuring that the propriety of their vote at the Council's committee meeting cannot be challenged. If a councillor does declare his outright support for or opposition to a proposal at a town or parish council meeting or elsewhere before the matter has been put before the committee where that councillor would be entitled to vote they should, if attending the committee meeting when the matter is being discussed or reported, make an open declaration to that meeting to that effect and take no part in the decision making process on that item.

### 2.3.3

Councillors should not organise support for or against a licensing application and should not lobby other councillors since this would also signal that they had made up their mind before hearing the evidence. Each councillor should make up his own mind on the evidence and facts presented to the committee.

### 2.3.4

The basis of the licensing system is often the balancing of conflicting interests. Opposing views are frequently strongly held by those involved. Whilst councillors should take account of various views expressed on an application, they should not favour or show bias against or towards any particular person, company or group or any particular premises or locality. They should not put themselves in a position where they may appear to do so.

## 2.4 Gifts and Hospitality

Councillors should be very cautious about accepting gifts and hospitality and must follow the advice in the Councillors' Code of Conduct. They should also have regard to the Guidance on receipt of gifts and hospitality in Part 5 of the constitution. Officers should follow that Guidance.

## 2.5 Declaration and Registration of Interests

### 2.5.1

The Councillors' Code of Conduct sets out requirements and guidance for councillors, for the registration and declaration of interests and the consequences of having such interests. These must be followed scrupulously and councillors should review the situation regularly. It must be borne in mind that not only should impropriety be avoided but also any appearance, or grounds for suspicion, of improper conduct. Responsibility for this rests individually with each councillor. When declaring an interest at committee this should be done at the beginning of the meeting and councillors should be clear and specific in identifying the item on the agenda in which they have an interest, if so whether the interest is a disclosable or other pecuniary interest or a non-pecuniary interest and in any event the nature of that interest.

### 2.5.2

Officers must declare any personal or financial interest in any licensing matter before the Council, must not deal with such matters on behalf of the Council and must not give advice to councillors or other officers on them. An officer with a personal or financial interest in a licensing matter must withdraw from any relevant committee meeting whilst that matter is discussed. Officers must maintain their professional integrity and should avoid becoming associated in the public mind with representatives of the licensed trade or environmental or other pressure or amenity groups.

## 2.6 Licensing Proposals Submitted by Councillors and Officers

### 2.6.1

Unopposed proposals to the Council by serving councillors and officers and their close friends and relatives will be dealt with under delegated powers, as the Council has no power to refuse a licence where no representations are made. Where representations are made from relevant bodies or interested parties the matter will be dealt with by a hearing before the Licensing Committee in the usual way. However to avoid any suspicion of impropriety in the case of member or officer applications Environmental Health, Licensing and Planning officers will prepare full reports on the applications for consideration by their respective committees which will determine what (if any) representations ought to be made.

### 2.6.2

Serving councillors who act as agents for people pursuing a licensing matter with the Council or submitting licensing applications on behalf of their employers as part of their job, must declare an interest and take no part in the processing of the application or in the decision making process. Any councillor who is a licensing or similar agent will not be appointed to the committee.

### 2.6.3

Members of the committee should not act as agents or submit licensing applications for other parties or voluntary bodies. To do so would give rise to suspicion that the committee was not impartial or may be influenced in the decision-making process.

## 2.7 Council Applications

### 2.7.1

The Council's own applications must be dealt with on exactly the same basis as applications submitted by members of the public. Officers must make representations having regard only to the licensing objectives and the Council's Licensing Policy and must not have regard to any other benefits, financial or otherwise, which may accrue to the Council as a result of any particular decision on a licensing application. Councillors must make decisions similarly. Unless there are representations the applications will be dealt with under delegated powers. However, to avoid any suspicion of impropriety in the case of a Council application Environmental Health, Licensing and Planning officers will prepare full reports on the applications for consideration by their respective committees which will determine what (if any) representations ought to be made.

## 2.8 Lobbying of and by Councillors

### 2.8.1

Lobbying is an attempt to influence councillors' views in order to achieve a particular decision. It can be of councillors by applicants, agents or objectors or by other councillors.

Lobbying may be verbal or by the circulation of letters or documents to all or some councillors.

Licensing decisions must be made strictly on the facts and policies relating to each application.

Lobbying can, unless care and common sense are exercised by all parties concerned, lead to the impartiality and integrity of a councillor being called into question. Notwithstanding the provisions of s.25 Localism Act 2011 when being lobbied, councillors, and members of the committee in particular, should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such circumstances, they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should make written representations to the relevant officer in order that their opinions can be presented with the officer's report to the committee.

### 2.8.2

A committee member who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If a member responds to lobbying by deciding to go public in support of, or against, a particular outcome it would be very difficult for that member to argue convincingly when the committee takes its decision that he has carefully weighed the evidence and arguments presented at committee. Although not amounting to a disclosable or other pecuniary interest according to the Code the proper course of action for such a member would be to make an open declaration not to vote. However, this is a severe restriction on the member's wish - duty, even - to represent the views of the electorate. Thus, councillors should, generally, avoid organising support for or opposition to a licensing application and avoid lobbying other councillors. Such actions can easily be misunderstood by parties to the application and by the public. Where a member makes a declaration that he or she will not vote then the member should withdraw from the committee table but may remain in the room and speak on behalf of his or her ward members either for or against the application.

## 2.9 Circulation of Information

Licensing applications must be determined on the basis of the documents and information formally submitted. Any submissions from applicants' agents or objectors that are formally received by the Council within the statutory time scale can properly be taken into account in making a decision. It can cause problems if councillors are given information or assurances by applicants which are not part of the formal application and which are not, therefore, enforceable. Problems can also arise if councillors are given information by objectors that may be misleading, untrue or irrelevant. Councillors should return such information to the sender and draw attention to the fact that only officially submitted representations can be considered.

## 2.10 No Political Decisions on Licensing Applications

Decisions on licensing applications must not be taken in political group meetings prior to committee meetings.

The view of the Ombudsman was that the use of political whips to influence the outcome of a planning application was contrary to the National Code and amounted to maladministration. There is nothing in the Councillors' Code of Conduct that would contradict this view. By analogy, the same would apply to licensing applications that are also quasi-judicial in nature. The use of political whips to influence the outcome of a licensing application could also give rise to an appeal or a legal challenge.

## 3. The Decision-Making Process

### 3.1 Pre-application Discussions

#### 3.1.1

Discussions between a potential applicant, relevant authorities, interested parties and the Council (through its licensing officers) prior to the submission of the application can be of considerable benefit. It should always be made clear at the outset that the discussions will not bind the Council to make a particular decision and that any views expressed by officers are personal and provisional. Advice should be considered and based upon the licensing objectives, the Council's Licensing Policy and government guidance. There should be no significant difference of interpretation by licensing officers. A written note should be made of all potentially contentious meetings and telephone discussions. A follow up letter may be advisable.

#### 3.1.2

Councillors should not seek to advise applicants, agents, relevant authorities or interested parties about the likely acceptability of licensing proposals. They should advise on both policy and procedures. They should make it clear that they will only be in a position to take a decision after having considered the officers' reports and any representations and heard any debate in the committee meeting.

#### 3.1.3

Councillors should not meet applicants, agents or third parties in connection with a current or proposed licensing application. If councillors do agree to meet, they should only do so in the presence of a licensing or legal officer. In exceptional circumstances, where it is not possible to arrange a meeting in the presence of an officer without causing undue delay councillors should notify the relevant officer of the proposed meeting beforehand and the notification should be recorded in the application file. Councillors should listen and may ask questions but should not comment or negotiate. They must make clear that any views they express are personal, rather than those of the Council. A note should be taken of the meeting and placed on the application file. The fact that a councillor has discussed any proposal with the applicant, agent, relevant authority or interested parties must be made clear when the application is before the committee for determination.

#### 3.1.4

The two paragraphs above do not apply to councillors when they are acting as agents for people pursuing a licensing matter with the Council or submitting licensing applications on behalf of their employers as part of their job. However, they should make it clear to their clients that they cannot and will not use their position as a councillor to influence the outcome of an application.

### **3.2 Reports to Committee**

Officer reports to committee should be accurate and cover, amongst other things, the substance of objections and views of consultees. Reports should be impartial and should not contain any recommendations. Oral reporting (except to update a report) should be extremely rare and carefully minuted when it does occur.

### **3.3 Committee Procedures and Decision**

The committee's decision must be in accordance with the provisions of the Council's Licensing Policy unless material considerations indicate otherwise. Any decision contrary to the provisions of the Licensing Policy must be clearly justified and recorded in the Minutes.

### **3.4 Adjournments**

Hearings should not be adjourned without proper justification. In no case should a hearing be adjourned to a date after which a decision is required to be taken by legislation.

### **3.5 Public Attendance at Committee Meetings**

#### **3.5.1**

Except in exceptional circumstances where the public interest requires it licensing applications, other than those to be determined by officers exercising delegated powers, will be considered in public session and all background information will be made available for public inspection upon publication of the agenda papers, unless there are specific reasons for exempting information in accordance with the Local Government Act 1972. However, to enable members to have a free and frank debate and exchange of views the committee will normally consider it in the public interest to exclude the press and public from that part of the meeting when the members discuss the application and form their conclusions. The legal advisor will remain with the committee whilst it considers applications. However, any legal advice will be given in public and the parties will be given the opportunity of commenting upon it.

#### **3.5.2**

The applicant, relevant authorities who have made representations and interested parties who have made relevant representations may speak at the meetings. They may, if they wish, be represented by a lawyer or some other person. With the permission of the committee, these parties may also call witnesses. Permission to call a witness should not be withheld unreasonably.

### **3.6 Site Visits**

Site visits are unlikely to be necessary and may lead to accusations of bias. In the event that a member of the committee considers that a site visit is necessary he should inform the Head of Legal Services in writing as soon as possible setting out his or her reasons as to why a site visit is required. A site visit will only be arranged if approved by the Chair or (in the case of the request coming from the Chair) the Vice-Chair. Site visits if arranged will be on the day of the meeting and should be attended by all members who will take part in the decision-making process. All site visits must be carried out in the presence of a licensing and/or legal officer. A site visit is not part of the formal committee proceedings and is not a forum for debate or making licensing decisions. Site visits are not open to the public and should not be used to canvass local opinions or promote an opportunity for lobbying or advocacy. Councillors should not express personal opinions during site visits.

## **4. Administrative Matters**

### **4.1 Member Training**

Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices, either verbally at meetings or as briefing notes (for example in the Members' Bulletin). Officers will arrange training on licensing issues. All members of the Council will be invited to attend. All members of the Licensing Committee should attend.

### **4.2 Complaints**

Any complaints received about the way in which a licensing application or other licensing matter has been dealt with in terms of procedures or fairness will be investigated under the Council's complaints procedure. The fact that someone may disagree with the decision the Council has reached is not a complaint that will normally necessitate investigation as such. However, officers will explain the reasons for the Council's decision in any particular case.

## GIFTS AND HOSPITALITY GUIDANCE

This note sets out the Council's guidance on dealing with offers of cash, gifts and hospitality from customers, contractors and those the Council regulates.

### Why does the Council need guidance on gifts and hospitality?

The purpose of this guidance is to protect officers and the Council as a whole. In local government, we need to be very careful to maintain public confidence in our own and the Council's actions. We are subject to public scrutiny and perception.

If you have any doubts about an offer of any gift or hospitality seek the advice of the Monitoring Officer. You should always record the offer of cash, gifts or hospitality with the Monitoring Officer within 28 days. Gifts and hospitality accepted to a value of £50 or more will be entered in your register of interests.

### 2. What if I am offered a fee or reward?

It is a criminal offence for any member to accept any fee or reward other than his proper remuneration. Any "fee or reward" can include money, gifts, presents, bribes or vouchers. Therefore, never accept cash or vouchers. Even if you have declined the offer, always notify the Monitoring Officer that it has been offered.

### 3. Can I accept gifts?

As a general principle, you should not accept gifts in your capacity as a Councillor. You should politely and tactfully refuse offers of gifts or return them to the giver as soon as possible. If the refusal or return of a gift would cause offence then details of the gift should be recorded with the Monitoring Officer, gifts to a value of £50 or more will be entered in your register of interests.

#### As a general rule, you should not accept gifts from -

- contractors or potential contractors i.e. persons or businesses who supply or want to supply goods or services to the Council;
- those the Council regulates i.e. persons or businesses that it licenses or gives permissions or consents.

#### Gifts of the following type may be accepted:

- modest gifts of a promotional nature, e.g. calendars, pens etc.
- a modest gift on the conclusion of a courtesy visit to a business or which are presented at civic or ceremonial occasions
- a modest gift presented to everyone at a conference or seminar

These exceptions apply only to modest gifts. Expensive gifts should not be accepted.

Gifts which are intended for the Council as a corporate body or for a particular service area may be accepted, but not for personal use. Such gifts must be forwarded to the Personal Assistant to the Chief Executive.

#### Can I accept hospitality?

As a general principle, hospitality should not be accepted. Hospitality is more likely to be acceptable when it is offered to a group rather than to just one individual. In any case, you should consider:

- the person, business or organisation offering the hospitality
- the scale and nature of the hospitality
- the timing of the hospitality in relation to decisions to be made by the Council.

Some examples where it may be appropriate to accept hospitality are:

- a) Working lunches/dinner if-
  - i. you and others are working on a project together;
  - ii. you and others are partners in community issues e.g. Health Authority, Police etc.;
  - iii. it is necessary for you to be able to effectively carry out your function as a Councillor
- b) Customary lunches/dinners at conferences or seminars where there are numerous guests
- c) Civic or ceremonial occasions when representing the Council or accompanying the Chair or the Council's representative.

Some examples where it will not be appropriate to accept hospitality are:

- a) Expensive meals, dances, other entertainments;
- b) Paid or concessionary holidays, travel or accommodation;
- c) Other concessionary rates which are not openly and as a matter of practice available equally to other organisations;
- d) Frequent hospitality from one source.

**STATUTORY OFFICERS - PROTOCOLS****1. Statutory Officers****1.1 Head of Paid Service (and Chief Executive)**

The Head of Paid Service is responsible for the corporate and overall strategic management of the authority as a whole. He/she must report to and provide information for the executive, the Full Council, the overview and scrutiny committee and other committees. He/she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the Full Council's decisions.

**1.2 Monitoring Officer****1.2.1**

Pursuant to Section 5 of the Local Government and Housing Act 1989, the Council is under a duty to designate one of its officers (to be known as the Monitoring Officer) as the officer responsible for performing the duties imposed by that Section.

**1.2.2**

The Monitoring Officer is under a duty to prepare a report to the Council or the executive if at any time it appears to him/her that any proposal, decision or omission by the Council or the executive or one of its committees, or officers, or by a joint committee on which the Council is represented, constitutes or may give rise to a contravention of any enactment, rule of law or statutory Code of Practice, or maladministration under Part III of the Local Government Act 1974. The Monitoring Officer must consult, so far as practicable, with the Head of Paid Service and the Chief Finance Officer and arrange for a copy of the report to be sent to each member. These duties cannot be delegated. They must be performed personally or, when he/she is absent or ill, personally by a nominated deputy.

**1.2.3**

The officer designated as Monitoring Officer may not be the Head of Paid Service nor the Chief Finance Officer.

**1.3 Chief Finance Officer****1.3.1**

Pursuant to Sections 113 to 116 of the Local Government Finance Act 1988, the officer referred to in the Local Government Act 1972 as the Chief Finance Officer must make a report if it appears to him/her that the executive or a member of the executive or an officer performing an executive function or the authority has made or is about to make a decision to incur unlawful expenditure, or has taken or is about to take unlawful action likely to cause a loss or deficiency, or is about to enter an unlawful item of account, or will incur expenditure in excess of its resources. For non-executive functions, the Council is required to consider the report within 21 days. During the time between the report being issued and its consideration, the Council is prohibited from making any payments other than those where there are contractual commitments.

**1.3.2.**

The Chief Finance Officer has further duties arising from Section 151 of the Local Government Act 1972, The Local Government and Housing Act 1989 and The Accounts and Audit Regulations 1996.

**1.3.3**

He/she is responsible for the proper administration of the authority's financial affairs; setting and monitoring compliance with financial management standards; advising on the corporate financial position and on the key financial controls necessary to secure sound financial management; providing financial information and preparing the revenue budget and capital programme.

## 2. Post Holders

### 2.1

Reference in this note to the Monitoring Officer also includes the Deputy Monitoring Officer and, with the exception of paragraphs 1.2.1, 1.2.2 and 3.1, the Chief Finance Officer and the Deputy Chief Finance Officer.

### 2.2

The Council is under a duty to provide the Monitoring Officer with such staff, accommodation and other resources as are, in his/her opinion, sufficient to allow his/her duties to be performed.

## 3. Protocol

### 3.1

The Council recognises that the role of the Monitoring Officer is a positive and preventative one, relating to the avoidance of illegality and maladministration and to the observance of Codes of Practice.

### 3.2

The Council shall publish the existence and nature of the role, by including reference to it in Members' and Staff Handbooks and in training or induction sessions for members and officers.

### 3.3

Each member and officer shall use his/her best endeavours to ensure the Council does not act unlawfully or against any Code of Practice or so as to give rise to maladministration or injustice.

### 3.4

Each member and officer shall co-operate in every way possible so as to reduce the risk of a need for the Monitoring Officer to issue a formal report.

### 3.5

The Council recognises that it will be required to provide the monitoring officer with such resources as he/she requires to carry out his/her responsibilities.

### 3.6

The Council acknowledges the Monitoring Officer's entitlement to see all reports, agendas, minutes, documents and any other information he/she requires in furtherance of his/her duties.

### 3.7

The Council recognises that there is no general need for the Monitoring Officer to report on:

- Minor procedural irregularities;
- Matters which have already been reported to members by another officer and where members are fully aware of the illegality or maladministration involved;
- Matters which are being resolved by other means e.g. most matters which have been referred to the Council's insurers;
- Litigation in which the Council is involved, provided the Council's case is arguable;
- Cases where the Council has been convicted of some offence and a full report on the circumstances has already been submitted to members;
- Most matters dealt with through the Council's complaints procedure unless these raise issues of illegality or maladministration, which is inherently present in the Council's systems and therefore will recur unless corrected. Most cases in which the Ombudsman has made a finding of maladministration as this would duplicate a report that has, in any event, to be considered by members.

## Procedure for Considering a Complaint under the Code of Conduct for Councillors

Our Code of Conduct for Councillors is available on our website at [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk)

A paper copy may be obtained on request to the Council's Monitoring Officer.

If you wish to make a complaint under our Code of Conduct or under the Code of Conduct for one of the town or parish councils within Uttlesford, please send your complaint in writing to Monitoring Officer, or Council Offices, London Road, Saffron Walden, CB11 4ER.

### 1. Purpose of the Code of Conduct procedure

This procedure covers the following topics:

- Some definitions
- The sort of complaints we can consider
- Making a complaint
- Assessing the complaint
- Investigating the complaint
- Considering the Investigating Officer's report
- The procedure for hearings before a Hearing Panel of the Standards Committee
- What sanctions can be imposed if a complaint is upheld

### 2. Some definitions

#### 2.1

**"Assessment Panel"**: Assessment panels meet to decide on how to proceed with a complaint in cases where this is not agreed between the Monitoring Officer and the Independent Person assigned to a complaint. Assessment panels are made up of three members of Uttlesford District Council who are also members of its Standards Committee.

#### 2.2

**"Code of Conduct"**: Local councils, including Uttlesford District Council and parish councils within its area, must adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. The Code is expected to promote principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. These principles are explained in the Code itself.

#### 2.3

**"Hearing Panel"**: Hearing panels meet to consider complaints that members have breached the code of conduct. Hearing panels are made up of three members of Uttlesford District Council who are also members of its Standards Committee, together with a non-voting Independent Person.

#### 2.4

**"Independent Person"**: This is a statutory role established by the Localism Act 2011. Uttlesford District Council is obliged to appoint at least one "independent person". In fact, it has appointed three.

- An Independent Person's views must be sought, and taken into account, by UDC before it makes decisions on allegations that it has decided to investigate. An Independent Person's views must also be sought in the circumstances set out in this procedure.
- The views of an Independent Person may also be sought by a member or co-opted member of UDC or of one of the parishes in its area if that member's behaviour is the subject of an allegation.
- One of the Independent Persons will participate in hearing panels alongside elected members.

2.5

**“Investigating Officer”**: This is a person appointed by UDC to investigate a complaint against a member or a co-opted member.

2.6

**“Member”**: This term is used in this procedure to refer to an elected councillor or co-opted member of UDC or of one of the town or parish councils in its area.

2.7

**“Monitoring Officer”**:

This is a statutory role provided for by the Local Government and Housing Act, 1989. UDC is obliged to designate one of its officers as Monitoring Officer.

The Monitoring Officer has an oversight role in ensuring that local authorities act lawfully and address instances of maladministration.

In the context of this procedure, the role of the Monitoring Officer is not to carry out formal investigation of complaints but to make some decisions on how to respond to complaints, in consultation with an Independent Person, and to provide advice and support to Hearing Panels.

The Monitoring Officer is responsible for initiating steps towards the informal resolution of a complaint where informal resolution is identified as appropriate by the Monitoring Officer and the Independent Person who is advising on the complaint.

The Monitoring Officer is also responsible for keeping a clear and auditable record of how complaints are considered.

2.8

**“Standards Committee”**: This is a committee made up of elected members of Uttlesford District Council. Its main role is to promote and maintain high standards of conduct by councillors and co-opted members. The membership of Hearing Panels is drawn from UDC’s Standards Committee.

**3. The sort of complaints we can consider.**

3.1

This procedure applies to complaints that a member has acted in a way that breaches the Code of Conduct. Uttlesford District Council (“UDC”) has a code of conduct for councillors and so do most town and parish councils. Some parish councils have the same code of conduct as UDC but some have their own codes.

3.2

The Code of Conduct only applies to councillors when they are conducting council business or are acting, claiming to act or are giving the impression that they are acting as a representative of the council to which they are elected. The Code of Conduct does not apply to their private lives.

3.3

We cannot consider complaints under this procedure that do not allege a breach of the Code. It is not a way simply of challenging decisions with which someone disagrees. There may be other ways of pursuing complaints or challenges to actions or decisions taken by councillors that do not relate to the Code of Conduct; for instance through a council’s complaints procedure, by complaining to the Local Government Ombudsman or through a statutory appeal process.

3.4

We can only consider complaints about councillors elected to UDC or to one of the town or parish councils within Uttlesford.

## **4. Making a complaint**

### **4.1**

Complaints should be made in writing, which includes email. It should be addressed to UDC's Monitoring Officer and set out full details of the complaint.

### **4.2**

If a member of the public has difficulty in putting a complaint in writing, the Monitoring Officer shall arrange other means to record and register the complaint. If the scope or nature of a complaint is not clear, the Monitoring Officer may ask for more detail. In these circumstances, the Monitoring Officer must ask the complainant to confirm that the complaint has been accurately recorded.

### **4.3**

The Monitoring Officer will offer advice and assistance but will remain impartial between the complainant and the councillor who is the subject of the complaint.

### **4.4**

'Anonymous' complaints will not normally be accepted. If a complainant requests anonymity, they must explain why. The Monitoring Officer will consult an Independent Person before deciding whether to accept a complaint on an anonymous basis. The Monitoring Officer shall record the reason for granting anonymity, if allowed.

### **4.5**

Within 5 working days of receipt of the complaint in final form the Monitoring Officer shall acknowledge the complaint and provide a copy of the Code of Conduct and this procedure to the complainant.

### **4.6**

Once a complaint is in final form, the Monitoring Officer shall send a copy of the complaint to the member who is the subject of the complaint. The Monitoring Officer will aim to do this within 5 working days. However, the Monitoring Officer may decide not to do this if this might prejudice the investigation. The Monitoring Officer shall consult an Independent Member of the Standards Committee before withholding a copy of the complaint from the member who is the subject of the complaint.

### **4.7**

If, at any stage, a complainant wishes to withdraw a complaint, the Monitoring Officer shall consult the Independent Person and may consult the member who is the subject of the complaint. Ordinarily consideration of a complaint would cease if the complainant wished to withdraw it. However, there may be circumstances in which it would be appropriate, in the public interest, to pursue a complaint despite the wishes of the complainant.

### **4.8**

In the event that the Monitoring Officer receives a complaint that a councillor has failed to declare a disclosable pecuniary interest ("DPI") and there is evidence that a serious potential DPI offence may have been committed, they will make immediate contact with the Police through a nominated single point of contact. In these circumstances, this procedure under the Code will be suspended pending consideration of the complaint by the Police. For the avoidance of doubt, there is no requirement for the Monitoring Officer to refer cases to the Police where it appears there may have been a genuine error or oversight by the member concerned and no advantage has been secured by them.

## **5. Assessing the Complaint**

### **5.1**

Once the substance of a complaint is clear, the Monitoring Officer shall consult the Independent Member about how to proceed. Options at this stage include:

1. No further action.
2. Informal resolution.
3. Formal investigation.

The Monitoring Officer shall, where appropriate, ascertain if the complainant and the member who is the subject of the complaint are prepared to attempt resolution of the complaint by informal means. Informal means may include mediation. In the event that informal resolution is not possible, the formal procedure will continue. Informal resolution may not be appropriate where a serious breach of the Code is alleged, where third party rights may be adversely affected or where there is a wider public interest in pursuing a formal investigation.

## 5.2

A number of factors, not limited to those below, will inform the Monitoring Officer's decision.

- Whether the alleged action relates to a breach of the code of conduct.
- When the action complained about occurred. (Complaints should be made in a timely manner and should usually be made within three months of the alleged breach.)
- Whether the alleged action is considered serious or minor/trivial.
- Whether the complaint appears to be politically motivated, vexatious or retaliatory.
- Whether the allegations relate to actions occurring whilst the member was acting in their official capacity or in their private capacity.
- Whether it is in the public interest to investigate.
- Whether the matter is considered suitable for alternative resolution and if so, whether the member and the complainant are prepared to consider this alternative.
- Whether the complaint should be pursued by other means; e.g. through a parish or town council complaints procedure, through an appeals process or through complaint to the Local Government Ombudsman.
- Whether there is sufficient information on which to consider the complaint.

In deciding whether to investigate a complaint, careful regard will be had to the right of members to freedom of expression and their role in contributing to political debate.

Regard will also be given as to whether an investigation is appropriate if a member has admitted the breach and has offered a sincere apology.

If the Monitoring Officer and Independent Member cannot agree on how to proceed, an assessment panel of the Standards Committee shall decide.

## **6. Investigating the Complaint**

### 6.1

When there is a decision to investigate a complaint, the Monitoring Officer shall formally appoint an investigating officer with appropriate skills and experience. The appointment shall take account of any potential 'conflict' between the Investigating Officer and Member.

If there is no suitable internal appointee, an officer from another authority or an external investigator may be appointed. The Investigating Officer must be prepared to attend any subsequent hearing.

### 6.2

On appointment, the Investigating Officer shall contact, and where possible meet, the complainant, to ensure a full understanding of the nature and substance of the complaint. The Investigating Officer shall acquire a copy of any documentation offered or referred to as evidence, and take details of any witness or witnesses prepared to provide evidence. At this point, the complainant may not extend the scope of the complaint but may clarify any matters.

### 6.3

The Investigating Officer shall contact witnesses and either obtain signed and dated statements from them concerning the complaint, or interview them and obtain a signed and dated record of the interview from them.

6.4

Witnesses should generally be prepared to attend a hearing, and have their evidence examined and cross-examined.

6.5

Throughout the investigation process, any interviewee, including the complainant and the member, has the right for a 'friend' to attend. The 'friend' shall not normally act in a legal capacity.

6.6

After interviewing the parties and witnesses and considering the evidence, the Investigating Officer shall produce a draft report summarising the investigation and making provisional findings of fact. The draft report shall also indicate whether the Investigating Officer considers that there has been a breach of the Code of Conduct, with reasons.

6.7

The Investigating Officer shall send a copy of the draft report to both the complainant and the member, marked 'In Confidence', and invite the parties to identify anything in the report with which they disagree, or which they believe requires further consideration. The Investigating Officer shall receive and take account of any comments. If necessary, in the interests of accuracy and justice, this process may be repeated.

6.8

The Investigating Officer shall then submit a final report to the Monitoring Officer.

## **7 Considering the Investigating Officer's report.**

7.1

The Monitoring Officer shall, on receipt, review the report and seek any clarifications necessary.

7.2

The Monitoring Officer will then send a copy of the final report to the Independent Person, to the complainant and to the member.

7.3

If the report concludes that the member has not breached the Code of Conduct, and the Monitoring Officer and the Independent Person accept the finding, the Monitoring Officer shall send all members of the Standards Committee a copy of the report for information.

7.4

If the report finds that the member has breached the Code of Conduct, the Monitoring Officer may consider that the matter does not require a formal hearing and informal resolution may resolve it. In this case, the Monitoring Officer shall consult the Independent Person and may propose a fair resolution that helps to ensure higher standards of conduct in the future. This may require the Member to acknowledge that their conduct was unacceptable. It may include a requirement for any of an apology, a process of conciliation, training or some other remedial action.

7.5

If informal resolution is not appropriate or proves not to be possible, the Monitoring Officer shall refer the matter for a formal hearing.

7.6

If the complaint is resolved informally, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action.

7.7

In all other circumstances, the Monitoring Officer shall refer the Investigating Officer's report to a panel of the Standards Committee for a formal hearing.

**8. The procedure for hearings before a Hearing Panel of the Standards Committee.**

Formal hearings will be conducted by a panel of three councillors drawn from membership of the Standards Committee based on availability plus one of the Independent Persons.

8.2

A member of the Standards Committee, against whom a Code of Conduct complaint has been made, shall not be selected as a member of a Hearings Panel until consideration of the complaint has been concluded.

8.3

Agendas for hearings panels shall be published and hearings panels shall be held in public unless: This would involve disclosure of exempt information as defined by Schedule 12A, Local Government Act, 1972; and

In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

8.4

Before a hearing panel meets, the Monitoring Officer shall write to the member and to the complainant, asking each:

- Whether they accept the finding in the report
- Whether they dispute any factual part of the report, identifying any areas of dispute
- Whether they wish to call any witnesses at the hearing (Only witnesses identified to the Investigating Officer by the complainant or by the member may be called as witnesses. In law, witnesses do not have to attend a hearing panel.)
- Whether the complainant wishes to be present at the hearing (The complainant shall be invited, but is not obliged, to attend the hearing. If the complainant is not present, the procedure below shall be adapted accordingly)
- Whether they wish to be accompanied at the hearing

8.5

In advance of a meeting of a Hearing Panel, its members shall seek to agree who will chair the hearing. The Chair may issue directions about the conduct of the hearing. A member of a Hearing Panel shall not act as Chair unless they have received relevant training.

8.6

Subject to the discretion of the Chair, the hearing shall be conducted as follows:

The Investigating Officer will be invited to present their report and to call witnesses. The complainant, the member and the Panel (including the Independent Person), in that order, may ask questions or seek clarification both of the Investigating Officer and any witnesses.

- a. The complainant will be invited to comment on the report and its findings and to call witnesses. The Investigating Officer, the member and the Panel, in that order, may ask questions or seek clarification both of the complainant and any witnesses.
- b. The member will be invited to comment on the report and its findings and to call any witnesses. The Investigating Officer, the complainant and the Panel, in that order, may ask questions or seek clarification both of the member and any witnesses.

- c. The Investigating Officer, the complainant and the member will be invited, in that order, to make brief concluding remarks.

**8.7**

Once the hearing has been concluded, the Hearing Panel, with the Independent Person, will retire to consider its decision. It may call on the Monitoring Officer to provide advice and guidance. The Hearings Panel is required to do the following:

- (i) to decide on the facts,
- (ii) to decide on whether these facts constitute a breach of the Code of Conduct, and
- (iii) to decide on the appropriate sanction.

**8.8**

In deciding whether or not to uphold the complaint the Hearing Panel must apply, as the standard of proof, the balance of probability, with the burden of proof resting on the Investigating Officer. The Hearing panel may only make an adverse finding if satisfied, on this basis, that the member has breached the Code of Conduct.

**8.9**

The Hearing Panel will then return and announce its findings on whether there has been a breach of the Code, with reasons.

**8.10**

Following announcement of the Hearing Panel's findings, the complainant and the member will be invited to make submissions, if necessary, regarding remedies or sanctions.

**8.11**

The Hearing Panel will then consider what, if any, sanction it wishes to impose. It shall retire whilst it considers this. It will then announce its decision and give reasons.

**8.12**

Following the hearing, the Monitoring Officer shall draft a record of the decision for approval by the Hearing Panel. Once the record of decision has been settled, a copy shall be sent to each of the parties.

**8.13**

In deciding whether to uphold the complaint, the Hearing Panel must apply, as the standard of proof, the balance of probability, with the burden of proof resting on the Investigating Officer. The Hearing panel may only make an adverse finding if satisfied, on this basis, that the member has breached the Code of Conduct.

**8.14**

The Hearing Panel will then return and announce its findings on whether there has been a breach of the Code, with reasons.

**8.15**

Following announcement of the Hearing Panel's findings, the complainant and the member will be invited to make submissions, if necessary, regarding remedies or sanctions.

**8.16**

The Hearing Panel will then consider what, if any, sanction it wishes to impose. It shall retire whilst it considers this. It will then announce its decision and give reasons.

8.17

Following the hearing, the Monitoring Officer shall draft a record of the decision for approval by the Hearing Panel. Once the record of decision has been settled, a copy shall be sent to each of the parties.

## **9. Appealing a Decision about a Complaint**

There is no right of appeal against a decision on a Code of Conduct complaint. If the complainant or the member considers that the complaint has not been considered properly by UDC, they may be able to complain to the Local Government Ombudsman or seek permission for judicial review

## **10. Sanctions available to a Hearings Panel**

10.1

The Hearings Panel has powers to take action in respect of individual councillors as necessary to promote and maintain high standards of conduct.

10.2

The Hearings Panel may do one, or a combination, of the following:

- a. Issue a formal Censure or Reprimand to the Member
- b. Report its findings to Council (or to the Parish or Town Council) for information
- c. Recommend the Member's Group Leader (or in the case of ungrouped members, recommend the Council or Committees) to remove the Member from appointments to Committees or Sub-Committees of the Council
- d. Recommend the Leader of the Council to remove the Member from any appointment to the Cabinet, or from particular Portfolio responsibilities
- e. Instruct the Monitoring Officer to (or recommend that the Parish or Town Council) arrange training for the Member
- f. Recommend to the Council (UDC) or its Cabinet, or to the Parish or Town Council that all outside appointments to which he has been appointed or nominated by that Authority are removed
- g. Exclude (or recommend that the Parish or Town Council exclude), the Member from the Council's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings  
If relevant, recommend that the Council removes the Member from the post of Council.
- h. Publish its findings in respect of the Member's conduct.

In cases where a Hearings Panel makes an adverse finding against a Member, its decision will be published on the Standards Committee pages of the Council's website. This includes decisions relating to members of Town or Parish councils.

## CODE OF CORPORATE GOVERNANCE

Uttlesford District Council's approach to ensuring effective Corporate Governance comprises seven key elements:

- A corporate commitment to effective corporate governance
- Effective planning and performance management processes
- A commitment to openness and accessibility
- Effective processes to ensure that the Council is accountable to its communities
- Adequate arrangements for independent review
- High standards of ethics and probity
- Sound risk management practices

This Code offers particulars of how these elements are realised.

### 1. Corporate Commitment

#### 1.1

The Council expressly and explicitly commits itself to the adoption of policies, practices and procedures, which ensure openness in all its dealings, subject only to the need to preserve confidentiality where it is proper and appropriate to do so.

#### 1.2

The Council commits itself to articulating a vision for its communities, consistent with the district's Community Plan and to working towards the delivery of that vision through:

- The Council's own strategies and programmes
- Partnerships with other agencies and organisations
- Articulating and promoting that Vision to other agencies and organisations
- Assisting others to deliver that Vision

### 2. Clarity of Role and Purpose

#### 2.1

The Council believes that a prerequisite of effective governance is clarity in the roles of the various elements of the Council.

#### **Full Council - the core roles being:**

- a) to agree the Council's Budget and Policy Framework;
- b) the various electoral matters (some of which are delegated to the Governance, Audit and Performance Committee)
- c) to debate major issues affecting the district.

**The Executive** - discharges key roles in specified service areas of providing strategic leadership to the authority, and of ensuring that the authority successfully discharges its responsibilities

#### **At least one Scrutiny Committee –**

This committee scrutinises executive and committee decisions, monitors performance, and develops policy.

**Regulatory Committees** - the Planning Committee and Licensing and Environmental Health Committee discharge the Council's key (non-policy) regulatory functions. The Planning Committee considers development control matters, the Licensing Committee deals with individual applications regarding licenses. The Governance, Audit and Performance Committee deals with the Council's

functions in respect of internal governance, its constitution, electoral matters, audit and performance management.

A Schedule of Meetings is agreed each year, usually in February for the coming civic year, and is published on the Council's website, [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk).

Additional meetings (particularly for the Licensing Committee) are held as required to deal with applications.

The Council's Constitution clearly sets out the respective roles of full Council, the executive, the overview and scrutiny committees, other committees and officers.

## **2.2 The Constitution also:**

2.2.1 sets out clear processes and procedures for policy development; decision-making; reporting of decisions; scrutiny and call-in of decisions

2.2.2 contains procedure rules governing the conduct of the Council's business

2.2.3 refers to financial regulations and procedure rules governing management of the Council's finances and contracting for goods and services

2.2.4 sets out the roles and powers of the Head of Paid Service, Chief Finance Officer and Monitoring Officer, and their statutory duties with regard to the operation and management, financial management and ethical behaviour of the Council and its officers

2.2.5 includes a Protocol which sets out expectations of the relationship between elected members and officers

2.2.6 contains a Scheme setting out allowances and expenses payable to elected members in the discharge of their functions.

## 2.3

The Constitution sets out detailed schemes of delegation which clearly identify those matters which the Council or the Leader have delegated to committees of the Council or the executive, to executive members and to officers.

## 2.4

Complete and up-to-date job descriptions and person specifications are in place for all the Council's staff, setting out, inter alia, the purpose and key responsibilities of each employee. Also job descriptions have been agreed for the roles of councillor, Leader of the Council and committee Chairs.

## 2.5

The staff remuneration is in accordance with a pay structure approved by the Council. The placing of individual posts on that structure is governed by job evaluation.

## 2.6

An Independent Remuneration Panel reviews members' allowances annually and makes recommendations on the appropriate level of allowances and on travelling and subsistence rates.

## 2.7

The Council has a corporate training programme. Roles of senior staff are defined and a management development programme is in place. A series of training programmes for team leaders and supervisors is held.

## 2.8

Induction training is also provided to all new recruits to the Council's employment.

## 2.9

A budget for elected member training has been agreed. There is an annual programme of member workshops on topical issues.

## Planning and Performance Management Processes

### 3.1 Vision

The Council has set out its vision for the District. A Local Strategic Partnership, Uttlesford Futures, has been established comprising representatives from the public sector, business community and voluntary sector to develop a Community Strategy for the district. This Strategy is not restricted to the services the Council provides or is responsible for, but is intended to assist, encourage and influence all relevant agencies to take appropriate actions to realise that vision.

### 3.2 Planning

#### 3.2.1

The Council annually adopts a Corporate Plan setting out its strategy relating to its own activities and functions, and reviews the continuing relevance of its strategies each year.

#### 3.2.2

The Council conducts an annual review of the major pressures impinging upon and issues affecting the district and the Council's services.

#### 3.2.3

Divisional Plans (which form the core of the annual Corporate Plan) are prepared each year for each of its areas of service, which reflect the priorities identified in the Corporate Plan and which relate to the Council's annual Revenue Budget and Capital Programme.

#### 3.2.4

The Corporate Plan, Revenue Budget and Capital Programme are publicly available, and are published on the Council's website.

#### 3.2.5

The annual divisional plans and budgets should inform every employee's appraisal and performance development and review which demonstrate each employee's contribution to the achievement of the Council's vision.

#### 3.2.6

The performance development and reviews also identify other development needs and contribute towards the formulation of the Council's corporate training programme.

### 3.3 Performance Management

#### 3.3.1

Divisional Plans contain performance information and targets. These comprise both nationally stipulated and locally developed performance indicators.

#### 3.3.2

Line managers are expected to take responsibility for the regular monitoring of their services and to report any particular concerns.

#### 3.3.3

The Council's Strategic Management Board monitors performance on a monthly basis.

#### 3.3.4

The Performance and Audit Committee monitors performance against specified indicators.

### 3.4 Partnership

#### 3.4.1

The Council's Procurement Strategy helps the Council when reviewing services to determine whether it is appropriate for total or partial outsourcing of a given service to be explored. The Council has a PFI contract for the management of three leisure centres within the district.

#### 3.4.2

The Council also has a commitment to working in partnership with other local authorities and relevant agencies where such partnership working will improve services and/or deliver greater financial efficiency. To this end, the Council has entered into agreements with other councils for the provision respectively of payroll facilities and the management and enforcement of off and on street car parking and is actively exploring other partnership options.

## 4. Openness and Accessibility

### 4.1 Agendas, Reports and Minutes

#### 4.1.1

The Council complies with the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985 and regulations made thereunder and the Local Authorities Executive Arrangements) (Access to Information) Regulations 2000 (as amended).

#### 4.1.2

As a minimum, this provides inter alia that all meetings of the Council, Committees and of the executive at which key decisions are taken will be held in public. Subject only to the right of the executive to decide that meetings of the executive which are not considering key decisions shall be held in private, except where exempt or confidential information (as defined in the Act) is being considered, all meetings at which decisions are taken will be held in public. Moreover, the Council will construe the definition of "exempt or confidential information" tightly, so that the public will only be excluded from meetings from the minimum number of items.

#### 4.1.3

Agendas for all formal Council member-level bodies will be posted on the Council's website [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk)

#### 4.1.4

Where decisions are based on officer reports, these reports (except where they include exempt or confidential information) will be posted on the Council's website so as to be as widely available for inspection as possible.

#### 4.1.5

The Council also complies with the Freedom of Information Act 2000. Its publication scheme was approved by the Information Commissioner in January 2009 and it has a detailed Freedom of Information Policy which can be found on the Council's website.

### 4.2 External Communications

#### 4.2.1

No-one, however, can get an accurate picture of what the Council is doing merely from access to agendas, reports and minutes.

#### 4.2.2

Accordingly, the District Council publishes a Council magazine *Uttlesford Life* on a regular basis.

## 4.3 Consultation

4.3.1 The Council will comply with the following principles when consulting the public on proposals.

4.3.2 Consultation by the Council with its citizens will be:

- (i) Representative - so that the views of those consulted really do represent those of the wider community;
- (ii) Reliable - so that findings from consultation can be relied on within certain limits of confidence;
- (iii) Sensitive to trends - so that the Council will know whether or not it is improving over time and responding to the community's aspirations;
- (iv) Actionable - so that the Council has a chance to make the changes or improvements that residents want to see.

### 4.3.3

The aim and purpose of the Uttlesford Futures Partnership is to encourage extensive participation by key stakeholders in shaping a vision for the district and in influencing the future strategy of the District Council and its partner organisations.

### 4.3.4

In addition, the overview and scrutiny committee has the power to seek the views of, take evidence from and co-opt members of the public/stakeholders when carrying out investigations, policy reviews etc.

### 4.3.5

The Council has established a citizens' panel within the district to enable the views of residents to be gathered on a range of issues.

## 4.4 Liaison

### 4.4.1

The Council liaises with the various Chambers of Commerce and major employers to ascertain the views of the business community in the district on the Council's activities, and annual service and financial proposals. Additional meetings are held from time-to-time with representative bodies or individual businesses in key employment sectors, to discuss issues of concern and priorities.

### 4.4.2

The Council also undertakes regular liaison with representatives of service users. These include welfare agencies in connection with both housing and housing benefit services. The Council facilitates meetings of the Uttlesford Benefits Forum when representatives of voluntary organisations meet the Council to discuss mutual issues.

### 4.4.3

Periodic meetings are held of Uttlesford Local Agenda 21 to ascertain views on sustainability.

### 4.4.4

The Council co-ordinates service focused forums for transport, arts, sport and tourism. There is regular liaison with the voluntary sector.

## **4.5 Public Accessibility/Participation**

### **4.5.1**

Members of the public are encouraged to contact their local councillor on any matter concerning the District Council's activities or any other matter affecting the district.

### **4.5.2**

After giving advance notice members of the public are permitted to speak at the start of any formal meeting of the Council, the executive or their committees. They are also allowed to make representations on planning applications at meetings of the Planning Committee.

### **4.5.3**

The Council's website also has a facility where residents can make their views known.

## **5. Accountability**

### **5.1 Access to Information**

The cornerstone of the Council's accountability is its commitment to ensuring that citizens are aware of its activities, and have access to information about the decisions which the Council is taking - see under "Openness and Accessibility" above.

### **5.2 The Council's Performance**

#### **5.2.1**

The Council is committed to ensuring that its citizens are aware of its performance. Performance is monitored by the Governance Performance and Audit Committee. Reports to the committee and minutes of its meetings are published on the Council's website.

#### **5.2.2**

The Council publishes a comprehensive Statement of Accounts every year. This is prepared in accordance with accounting rules and practices agreed by the Chartered Institute of Public Finance and Accountancy and endorsed by the Council's external auditors. The Statement is posted on the Council's website.

### **5.3 Complaints**

Residents have the right to complain to -

#### **5.3.1**

the Council itself under its complaints procedure (a copy of which can be obtained from the Council Offices during normal office hours).

#### **5.3.2**

the Ombudsman if not satisfied with the outcome of using the Council's own complaints scheme;

#### **5.3.3**

the Information Commissioner (on data protection, freedom of information or environmental information issues) if not satisfied with the outcome of using the Council's own complaints scheme;

#### **5.3.4**

the Council about a breach of the Councillor's Code of Conduct.

## **6. Independent Review**

### **6.1 Internal Audit**

#### 6.1.1

The Council's internal audit team is charged with independently monitoring the Council's activities; to review and report on compliance with policies, plans and procedures; to ensure good standards of financial management; the soundness of accounting and other internal controls; the safeguarding of the Council's assets; and the prevention and detection of fraud.

#### 6.1.2

The audit team is responsible to the Governance, Audit and Performance Committee. The Internal Audit Manager reports to the Head of Legal Services. Copies of audit reports are issued to relevant officers and members for action and information.

#### 6.1.3

External audit (see below) reports annually on the adequacy of internal audit arrangements.

### **6.2 External Audit**

#### 6.2.1

External auditors also monitor the Council's activities. Their responsibilities are set out in the Statement of Responsibilities of Auditors and of Audited Bodies published by the Audit Commission [www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)

#### 6.2.2

The External Auditors monitor the effectiveness of the Council's service and financial planning and performance management processes and practices.

#### 6.2.3

They annually review the Council's financial standing, legality of financial transactions, systems of internal financial control, standards of financial conduct and the prevention and detection of fraud and corruption. They also audit and give an opinion on the Council's financial statements, and certify grant claims to Government.

#### 6.2.4

They also issue periodic reports on matters which they have considered, and publish an annual Audit Letter which is issued to all members of the Council and discussed at a meeting of the Governance, Audit and Performance Committee and is posted on the Council's website.

#### 6.2.5

All external audit findings are drawn to the attention of and recommendations agreed with, relevant staff, and, where appropriate, members. The implementation of agreed recommendations is monitored during the following audit.

### **6.3 Inspection**

#### 6.3.1

The Department of Work and Pensions carry out periodic reviews of the accuracy of the Council's Housing and Council Tax Benefit processing, and the effectiveness of measures in place to prevent and detect benefit fraud. Major inspection reports will be publicly available.

#### 6.3.2

The Food Standards Agency undertakes inspections of local authority food enforcement services.

### 6.3.3

The Food and Veterinary Office of the European Commission carries out regular inspections on the control of imported animal products at Stansted Airport. It has a programme of inspections on the control of imported food of non-animal origin.

## 7. ETHICS AND PROBITY

### 7.1

The Council's Standards Committee, which comprises members of the Council, Independent Persons, who are non-voting members of the committee (legislation prevents independent Persons from being voting members,) has overall responsibility for promoting high standards of ethics and probity in the Council.

### 7.2

It does so by promoting awareness and understanding of codes of conduct for both district and parish/town councillors.

### 7.3

The Council also has in place a Fraud and Corruption Policy aimed at ensuring adherence to the highest standards of ethics and probity, and a Whistleblowing Policy which encourages officers to report any action which they consider to be improper or unethical.

### 7.4

In order to ensure that members and officers understand and respect each other's roles, the Council has also introduced a Member-Officer Protocol which forms part of the Council's Constitution.

### 7.5

The Head of Legal Services holds the role of "Monitoring Officer. They have the task of advising the Council should it propose to do anything which is illegal, improper, unethical, contrary to any code of practice or would amount to maladministration.

## 8. RISK MANAGEMENT

### 8.1

Uttlesford District Council adopts a risk-averse approach to the management of the public money within its control. It also takes all reasonable steps to minimise the risk of loss, damage or injury to its staff and to members of the public visiting its buildings and other property.

### 8.2

The Council recognises that it needs to maintain a high level of public confidence in its decisions and its role as a provider of services.

To facilitate this it:

- Will maintain high standards of public account ability and openness
- Comply with legal requirements
- Safeguard public and staff health and safety, so far as is reasonably practicable
- Maintain systems to identify acts or omissions which would increase the Council's risks

### 8.3

However, a totally risk-averse approach is not appropriate if the authority wishes to deliver efficient and effective services to its public and to exercise proper community leadership of the district. Accordingly, where the adoption of a risk-averse approach is not relevant, the Council will include in its decision-making processes an assessment of the nature, probability and impact of potential risks, and weigh them against the potential benefits of alternative courses of action.

## 8.4

It also seeks to manage such risks. Such management may include:

- controlling them through seeking specialist advice or adopting rigorous controls;
- transferring risk (e.g. by insurance); sharing the risk (e.g. by entering into partnership arrangements)
- managing or mitigating the risk through internal controls.

## 8.5 Internal Controls and Procedures

The Council maintains rigorous and effective systems to monitor financial transactions. Clear and effective Financial Regulations and Procedure Rules are referred to in the Council's Constitution and are also available on the Council's website.

It takes a medium-term view of its financial planning to ensure that resources are likely to be available to meet future demands.

It ensures that policies and procedures are in place so as to secure, so far as possible, a safe and healthy working environment for its staff.

It maintains a culture of compliance with legal requirements, and the Legal Services Section has the express role of ensuring that the Council is aware of its legal obligations.

It endeavours to be open, accessible and accountable in all its dealings and it maintains and publicises procedures so that individuals feel secure in reporting perceived wrongdoing.

It maintains codes of ethical conduct and offers guidance to members and staff on standards of good behaviour.

It ensures, so far as is practicable, that its policies and decisions are publicised.

It adopts standards for the maintenance of its buildings, property, plant, equipment and vehicles which ensure that they are as safe as is reasonably practicable.

It uses the service plan and appraisal development procedures to attempt to ensure that adequate staff resources are available to deliver the Council's programme and that those staff are adequately supported and trained.

It maintains effective emergency planning arrangements, and exercises and trains its staff in responding to potential civil emergencies, so as to ensure that the authority has the capacity to assist its communities to cope with and recover from disaster.

**LOCAL AUTHORITY MEMBERS – RESTRICTIONS ON VOTING**

1. In addition to the steps that may be taken directly against a local authority member who is in arrears with amounts of Council Tax, S106 of the Local Government Finance Act 1992 imposes a duty on a councillor whose payments are two months overdue to make a declaration to that effect and to refrain from voting, at any meeting where certain matters are being dealt with.
2. Section 106 applies at any time to a member of a local authority, or a member of a committee of a local authority or of a joint committee of two or more local authorities if, at that time, an amount of council tax has become payable by him and has remained unpaid for at least two months. If such a member is present at a meeting of the authority or committee, and specified matters concerning the calculation of budget requirements, council tax amounts or precepts are to be considered he must, at the meeting, and as soon as practicable after its commencement, disclose the fact that the section applies to him and that he cannot vote in the matter.
3. In the event that a member fails to comply with his duty under S106, he will, for each offence be liable on summary conviction to a fine not exceeding level 3 in the standard scale, unless he proves that he did not know that the section applied to him or that the matter in question was the subject of consideration at the meeting. Prosecution for an offence under this provision may only be instituted by or on behalf of the Director of Public Prosecutions.
4. If members require any clarification on the above please contact the S151 Officer, tel. 01799 510510.

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**PROTOCOL ON THE USE OF COUNCIL-SUPPLIED COMPUTER FACILITIES BY MEMBERS****1 Introduction**

The Council provides Members with computer equipment to use to facilitate the performance of their duties as Members. This protocol sets out the conditions on which such facilities are provided.

**2 Security for the equipment**

- (a) The Member will not be held responsible for theft of loss or accidental damage to the computer equipment, provided s/he takes reasonable care of it. The Member agrees to make reasonable arrangements for the safe-keeping of the equipment while the equipment is in the Member's possession.
- (b) Access to the Council's information systems via the equipment will be available, but subject to password or other security. The Member shall ensure that no-one other than the Member is given access to those systems and shall not reveal any such password to any other person.

**3 Use for Council Business**

- (a) The equipment is provided to the Member specifically to facilitate the discharge of the Member's functions as a Member. The Member must therefore not use the equipment in any manner which will prevent or interfere with its use for that purpose.
- (b) Accordingly, the Member must not knowingly:
  - (i) misuse the equipment;
  - (ii) install or use any other equipment or software;
  - (iii) use any device as a telephone or for any purpose whereby a charge may be incurred by the Council;
- (c) The Member must:
  - (i) Ensure that the equipment is maintained in a working condition;
  - (ii) Report any faults promptly to the ICT service desk (tel: 01799 510412);
  - (iii) Provide reasonable access to Council officers to service, maintain and repair the equipment.
- (d) The Council provides the equipment together with ancillary materials required for the Member's functions as a Member. Accordingly, the Council may decline to provide further equipment or material beyond a certain allowance where the use of such equipment or material appears to the Council to be required for private (non-Council) use.

**4 Use for Private Purposes**

- (a) The Member may use the equipment for private and family purposes;

- (b) The Code of Conduct restricts Members from improperly using Council resources for political (including party political) purposes. For this purpose, improperly using Council resources for political purposes shall mean:-
- (i) communications sent on Council headed notepaper or by way of electronic transmission on Council owned equipment which constitutes an attack on any individual Member, on a political group or the adopted policy of the Council;
  - (ii) communications sent on Council headed notepaper or by way of electronic transmission on Council owned equipment which promote the views or policy of a political group which has not been adopted as the policy of the Council;
  - (iii) canvassing support or opposition for a candidate or political group for any election provided that this shall not in any way restrict the use of Council resources for communications between Members or Council officers or restrict a Member from responding to individual constituents using Council resources;
- (c) The Council accepts no responsibility for private use of the equipment or any loss, costs or liability which the Member or any other person may suffer as a result of the use of Council supplied computer equipment.

## 5 Inspection and Audit

The Council reserves the right to inspect or audit the equipment at any time. The Member is required to give Council officers access at any reasonable time for such inspection and audit. Members are advised that the equipment includes a history file which records its use, and particularly any websites which it has accessed.

## 6 Costs

- (a) The Council will meet the cost of providing the computer equipment.
- (b) Each Member is responsible for his/her own electricity bill in using the Council supplied computer equipment.

## 7 Return and Recovery of the equipment

- (a) The equipment remains the property of the Council.
- (b) The Council reserves the right to require the Member to return the equipment at any time and the right to recover the equipment from the Member.
- (c) The Member is required to return the equipment to the Council upon ceasing to be a Member.
- (d) The Member is required to return the equipment to the Council in the event that the Member's use of IT equipment is suspended by the Standards Committee of the Council.

## 8 Data Protection/Freedom of Information

- (a) Members are covered by the Council's registration under the Data Protection Act 1998. As such the subject access provisions of that Act apply. This means that a person about whom a Member holds information electronically on Council owned equipment may require all such information to be disclosed to them unless a statutory exemption applies. A Member not wishing a disclosure to be made in response to a request should consult with Legal Services to ascertain if such an exemption may apply.

- (b) Where a Member stores information other than as representative of the Council on the Council's systems the Council generally holds this information on behalf of the Member, not on its own account. Accordingly the Council will not "hold" the information for the purposes of the Freedom of Information Act 2000 and would not normally be required to disclose it in response to a request for information made under that Act. Information stored by Members as representatives of the Council is disclosable under the Act, however, unless a statutory exemption applies. Members will be consulted regarding any request for information stored by them and if a Member objects to the information being disclosed Legal Services will advise as to whether an exemption exists which may be applied.

### **9 Restriction of Use**

The Council reserves the right to restrict the use of the equipment if it has reason to believe that the use of the equipment is likely to offend any provision of the Protocol. In particular, the Council reserves the right to:

- (a) remove or disable any software or equipment not installed by the Council
- (b) remove any information not relating to the business of the Council or the office of Member
- (c) disable remote access

### **10 Additional advice**

Attached to this Protocol is Annex A, which gives advice on the health & safety aspects of using Council supplied computer equipment at home. During their induction, Members have been made aware of the Council's policy on the use of email and the internet on Council supplied computer equipment.

This policy is available on request from Democratic Services.

### **ANNEX A:**

#### **ADVISORY HEALTH AND SAFETY GUIDELINES FOR MEMBERS WHEN USING DISTRICT COUNCIL IT EQUIPMENT AT HOME**

1. The Council needs to consider the health and safety requirements regarding home working as they relate to Members using Council-provided IT equipment in their homes.
2. A copy of the Health and Safety Executive leaflet on home working is enclosed. Please read it carefully.
3. It is important that the electrical system in Members' homes is properly constructed and maintained. Anyone with a modern home (built in the last 20 years) should be all right; however, older properties, or a property that has not been rewired within the last 25 years, should advise the IT section of this. They will then contact the Central Safety Advisory Service for advice on the suitability of the electrical system in the Member's home. However, the cost of any remedial work is the responsibility of the homeowner.
4. Members who work from home will have their workstation assessed to comply with the Display Screen Equipment Regulations.
5. Please remember never to eat and/or drink close to electrical/IT equipment.

## Constitution of the Uttlesford Youth Council Objectives

The Uttlesford Youth Council exists to give the young people of Uttlesford a voice in the affairs of the Uttlesford District Council (UDC). It endeavours to represent specifically the views of young people, especially on those issues in which they have particular interest.

The Youth Council will be recognised in the Constitution of the District Council, and its members will be invited to attend meetings of the Full Council and will be offered a suitable speaking slot to voice matters of concern to young people up to twice annually, and also exceptionally, by prior arrangement with the Democratic Services of the District Council.

The Youth Council will engage with the District Council on any matters of concern and the District Council will in turn undertake to provide a response within ten working days of the matter first being raised.

### Electing councillors

#### Eligibility

Candidates for the Youth Council must

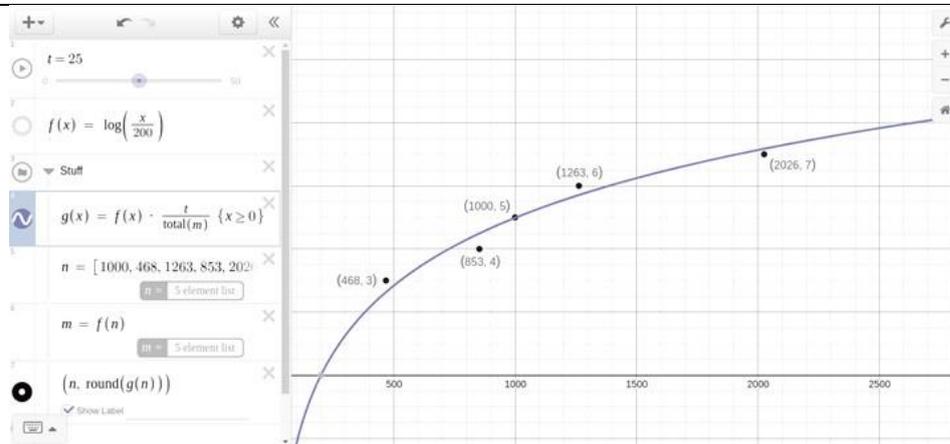
- (a) be aged at least 13 on the 31st of August in the calendar year in which the elections for which they are standing are held, and no older than 19 when they stand for election, and
- (b) be either
  - (i) living or working in the district, or
  - (ii) attending school, college, or sixth form in the district

There is no limit on the number of terms that a councillor may serve, nor any restrictions on standing consecutively.

Constituency	Number of students (201601)	Number of seats
Felsted School	-1,000	5
Forest Hall School	468	3
Helena Romanes School and Sixth Form Centre	1,263	6
Joyce Frankland Academy, Newport	853	4
Saffron Walden County High School	2,026	7
Residents not attending school in the district		3

A number of seats on the council be available for each secondary school, college, and sixth form in the district, with weightings based upon their sizes thus:

The number of seats for each constituency is calculated according to this graph, where t is the total number of seats across the constituencies, and n is a list of the student numbers of the constituencies:



In addition to the school-based seats, three seats are available for residents of the district who meet the eligibility criteria but who do not attend school, college, or sixth form in the district (see table above). Those who wish to stand for the Youth Council will be invited to apply by application. Applications will be considered by the Youth Council at the first meeting after the election and successful candidates co-opted. If the Youth Council has any vacant seats following elections or after resignations, then it may, by majority vote, co-opt an eligible member to fill each seat. Substitutes who wish to be co-opted are to be considered for the seat first, before seeking to co-opt a member who did not stand for election.

## Election

Each educational institution is given the responsibility to hold its own elections. The Youth Council will offer support to the institutions to hold campaigns, promote the elections, and hold the elections with the help of the incumbent councillors for that institution.

The candidates for each constituency will be ranked in descending order of preference after voting. The number of councillors to be elected for each school will be taken from the list of candidates in descending order of votes given to each candidate (beginning with the candidate with the highest number of votes). The remaining candidates, unless they decide to opt out, will become deputies. If a councillor cannot attend a meeting, then they are to nominate one of the deputies to attend as a substitute. The term of a deputy is one year. In the event of a councillor leaving the Youth Council, the deputies are invited in order of lessening preference to fill the vacancy and become a councillor.

Any seats belonging to a councillor whose term has not expired and who is not standing down will not be filled by election.

Elections to fill any vacant seats shall take place during a two week period in October or November annually, as agreed by the Youth Council to fit best within school term times. The terms of the councillors-elect will begin on the day of election. The duration of each term shall be approximately one year, ending on the day of the election after that in which they were elected.

## General principles

The Youth Council will adhere to the following principles:

- (a) Although councillors are still permitted to be a member of a political party whilst serving their term, the Youth Council itself will always be strictly non-party political, and all meetings will be conducted on that fundamental principle.

- (b) Councillors will not miss school, college, sixth form, or work to undertake any duties for the Youth Council, unless in exceptional circumstances where it has been permitted for the councillor in question by
  - (i) their school, and
  - (ii) their employer parent or guardian (if under 18 years of age).
- (c) All councillors shall endeavour constantly to remain aware of and represent the interests of their constituents.

## Meetings

- (a) The Youth Council will hold a full meeting every other month, scheduled in the previous meeting to be
  - (i) during the first week of the month,
  - (ii) in a venue in Uttlesford to which either the Uttlesford District Council or the Essex Youth Services has access, and
  - (iii) from 17:30 to 19:30, unless otherwise agreed. Meetings may be held more frequently if necessitated by urgent business to be considered.
- (b) Meetings of the Youth Council are open to members of the public, district councillors and officers, by prior arrangement through contacting someone nominated by the Youth Council. Any young person whom the Youth Council represents is permitted by prior arrangement to attend an open-session forum at the beginning of the meeting and participate in discussions, but will have no vote. The Youth Council may vote to expel any person on the basis of disruptive behaviour.
- (c) Minutes will be taken at full council meetings, by a councillor confirmed for the role at the beginning of the meeting, comprising at least
  - (i) a list of all councillors present and all apologies received,
  - (ii) details of proposals made and the outcomes of votes upon them,
  - (iii) any significant contributions to discussions by a councillor, and

If a councillor is not available to fulfil this role, the District Council will provide the services of an officer (usually from the Democratic Services team) to undertake this role. Minutes will be published on the Youth Council's page of the website.

- (d) An agenda for each full council meeting will be produced and circulated with at least five full days before the meeting. The agenda will include the undermentioned standard items as well as any matters for discussion as agreed by the chair. The standard items are:
  - (i) apologies made by councillors who cannot attend the meeting,
  - (ii) minutes of the last meeting to be signed off for accuracy,
  - (iii) any items of business specified on the agenda,
  - (iv) any other urgent business, and
  - (v) the date, time, and venue of the next meeting.
- (e) A meeting of the Youth Council will only be quorate if it comprises
  - (i) at least seven councillors, and
  - (ii) councillors representing at least three different constituencies.

## Proposals

Any councillor may make a proposal in a meeting. The proposer may withdraw their proposal at any time before voting. The procedure for motion to be considered is as follows:

- (a) The proposal must first be seconded.
- (b) The proposal is then opened for discussion and debate by the councillors present. Whilst discussion is open, the proposer may agree to amend their proposal, or any councillor can propose an amendment. If either the original motion or any amendment proposed is seconded, it will be put to the vote and determined by a majority show of hands.

## Majority show of hands

First those in favour of the motion will be asked to raise their hands, and then those against. Each councillor may only vote once. Any hands which are not raised will be counted as abstentions. For the motion to be passed, a simple majority of councillors who voted must vote for the motion.

If the vote is tied, a second discussion period shall ensue, followed by a second vote. If this is also tied, the person acting as chair will have a casting vote.

A councillor is only eligible to vote if they have been present for the entire discussion of the motion.

## Chairship Chair Election

A chair will be elected with a term of one year, in the last full meeting under the chairship of the incumbent chair. Any councillor may stand for the role of chair, unless they are the incumbent chair. Time will be allocated towards the end of the meeting for candidates to make a short speech, and for a vote to be taken. The chair will be elected by secret ballot. The candidate with the plurality of votes (the most votes, whether or not by overall majority of those present) will be elected.

The chair-elect's term will begin at the end of the meeting in which they are elected.

## Role

The chair will be responsible for

- (a) chairing full meetings during their term (including ensuring that minutes are taken, directing the Youth Council through the agenda, and overseeing discussions and voting),
- (b) agreeing agenda items for full meetings during their term,
- (c) appointing councillors to working groups and appointing chairs of working groups, and
- (d) communicating with the chairs of the working groups to ensure that they have the resources needed.

After a second discussion period, the chair receives a casting vote to determine the outcome of a tied vote. The chair can delegate work as agreed to the vice chair either at or outside of formal meetings, provided that a report back is made to the next meeting.

## Vice Chair

**Election**

A vice chair will be elected at the same time, and with the same term and method of election, as the chair.

**Role**

The vice chair will chair meetings in the absence of the chair- man. They are expected to assist with the chair's work outside of meetings.

**Working groups**

A working group is a voluntary team of councillors which exists to research and make proposals relevant to the terms of reference on which it has been set up. A working group may be created by vote at a meeting. Upon the creation of a working group, the chair will either before the conclusion of the meeting or immediately after the meeting has finished:

- (a) appoint councillors to serve on the working group - the chair will ask for a show of hands for volunteers, and should appoint an appropriate number of councillors to the working group, taking into account the number of other working groups on which each councillor sits and the distribution of schools across the councillors -,
- (b) appoint a chair, or two co-chairs, of the working group - the chair will ask the working group's members for a show of hands for volunteers, appointing the chair or co-chairs based upon suitability for the working group -, and
- (c) with the members of the working group, agree suitable terms of reference and a date by which the working group must report back, and set a date, time, and venue for the first meeting of the working group.

**Ceasing to be a councillor**

A councillor will cease to be a councillor

- (a) at the end of their term of office, failing re-election,
- (b) upon formally resigning, by means of signed letter given to the chair (or vice chair if the resigning councillor is the chair),
- (c) upon moving out of the area or school, college, or sixth form which they represent,
- (d) by failing to attend five meetings in a row, having received a warning letter after missing two in a row, or
- (e) by being expelled for poor attendance and poor performance. If a councillor misses two meetings in a row, their expulsion on the basis of poor attendance will be put forwards for discussion at the third meeting. The rest of the Youth Council is to vote upon the matter, guided by evidence of how likely the councillor is to ad equately improve their attendance in future meetings, and how useful the councillor has been to the Youth Council outside of the Full Council meetings (such as in working groups).

**Constitutional review**

A proposal can be made at any Council meeting to amend any part of the Constitution. The Constitution will be approved by the District Council and any amendment must be agreed by majority vote at a Council meeting.

## Protocol for Rule 2.4: Member Questions to the Executive and Committee Chairs at ordinary meetings of the Council

### 1. Written questions asked by Members of the Council

Members will be required to submit their questions in writing to Democratic Services before 10:00am eight working days before the Council meeting. The questions should be concise and indicate to whom the question is directed (the Leader, a Cabinet Member or a Chair of a Committee).

The question should relate to any matter in respect of which the Council has powers or duties. The written question will be published with the agenda for that meeting in the order in which the questions were received, unless the Chief Executive, Monitoring Officer and/or Section 151 Officer considers the question should be restricted in accordance with the rules applicable to access to information procedures.

No amendments are permitted to questions once they have been published, unless they are put forward by the questioner for the purpose of clarification, and members can withdraw their questions but may not substitute them.

Responses to these questions will be provided in writing and circulated to all Members no later than 10.00am on the working day before the meeting.

#### 1.1.

##### **Clarification question**

If after a reply is given to a written question the Member who asked the question considers that the reply requires clarification, they may ask once for clarification but otherwise no supplemental questions will be permitted except by leave of the Chair.

If the Member who asked the question considers that the reply requires clarification, but are unable to ask due to lack of time, they may submit their clarification question in writing to Democratic Services before 5.00pm on the day following the meeting. The question of clarification will be put to the relevant Chair or Cabinet Member and a written response will be circulated with all Members and published on the Council's website within 5 working days of the meeting where possible.

#### 1.2

##### **Restriction on number of questions**

The number of written questions which may be asked by any one Member at any one meeting will be limited to two.

#### 1.3

##### **Urgent oral questions**

A Member may put an oral question to Cabinet Members and Committee Chairs regarding any urgent matter that has arisen in the 8 working days preceding the meeting, subject to attaining the consent of the Chair of Council.

The question should be provided in writing to Democratic Services, and copied to the relevant member from who a response is requested, no later than 9.00am on the day of the meeting, where possible.

Urgent questions permitted by the Chair will be taken before all other questions.

**1.4****Form of answer to oral questions and questions of clarification**

An answer may take the form of -

- (i) a direct oral answer; or
- (ii) where the desired information is contained in a publication of the Council, a reference to that publication; or
- (iii) where the Chief Executive considers that the reply to the question can conveniently be so given, by a written answer circulated to the Members of the Council present at the meeting.
- (iv) where a reply cannot be provided at the meeting itself, a written answer will be circulated to all Members of the Council and published on the website within 5 working days where possible.

**1.5 Time permitted**

The time allotted at each meeting for the putting and answering of questions under this paragraph shall not exceed 30 minutes, without the leave of the Chair of the Council.

**1.6 Exceptions**

Questions will not be permitted at Annual Council or budget setting meetings.